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**Susan Byorth Fox
Executive Director**

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CHAPTER NO. 322

[HB 141]

AN ACT AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRY TO EXERCISE ACTIVE SUPERVISION OF LICENSING BOARD ACTIONS THAT ARE ANTICOMPETITIVE OR POTENTIALLY ANTICOMPETITIVE; PROVIDING FOR LEGISLATIVE REVIEW AND AUTHORITY; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-121, 37-1-121, AND 37-1-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, in 2015 the U.S. Supreme Court held in *North Carolina State Board of Dental Examiners v. the Federal Trade Commission* that members of state licensing boards on which a controlling number of decisionmakers are active market participants in the regulated profession are immune from federal antitrust liability for anticompetitive conduct as state actors only if the challenged restraint is clearly articulated and expressed as state policy and the state has and exercises active supervision over those types of board actions; and

WHEREAS, Montana's professional and occupational licensing board members include active market participants, and the Legislature intends to ensure that Montana law provides for the active supervision of boards as required by the U.S. Supreme Court decision for purposes of state action antitrust immunity; and

WHEREAS, this legislation seeks to continue to rely on the expertise provided by practicing members of the profession to regulate the profession and affirmatively chooses to afford a state action defense and thereby avoid personal legal liability for licensing board members.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-121, MCA, is amended to read:

"2-15-121. Allocation for administrative purposes only. (1) An agency allocated to a department for administrative purposes only in this chapter shall:

(a) (i) exercise its quasi-judicial, quasi-legislative, licensing, and policymaking functions independently of the department and without approval or control of the department *except as provided in subsection (1)(a)(ii)*;

(ii) accede, if the agency is a licensing board regulated by the department of labor and industry under Title 37, to the active supervision required by 37-1-121(1)(d);

(b) submit its budgetary requests through the department; and

(c) submit reports required of it by law or by the governor through the department.

(2) The department to which an agency is allocated for administrative purposes only in this title shall:

(a) direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency;

(b) include the agency's budgetary requests in the departmental budget;

(c) collect all revenues for the agency and deposit them in the proper fund or account. Except as provided in 37-1-101, the department may not use or divert the revenues from the fund or account for purposes other than provided by law.

(d) provide staff for the agency. Unless otherwise indicated in this chapter, the agency may not hire its own personnel.

(e) print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.

(3) The department head of a department to which any agency is allocated for administrative purposes only in this chapter shall:

(a) represent the agency in communications with the governor;

(b) allocate office space to the agency as necessary, subject to the approval of the department of administration.”

Section 2. Section 37-1-121, MCA, is amended to read:

“37-1-121. Duties of commissioner – definitions. (1) In addition to the powers and duties under 2-15-112 and 2-15-121, the commissioner of labor and industry shall:

(1)(a) at the request of a party, appoint an impartial hearings examiner to conduct hearings whenever any board or department program holds a contested case hearing. The hearings examiner shall conduct hearings in a proper and legal manner.

(2)(b) establish the qualifications of and hire all personnel to perform the administrative, legal, and clerical functions of the department for the boards. Boards within the department do not have authority to establish the qualifications of, hire, or terminate personnel. The department shall consult with the boards regarding recommendations for qualifications for executive or executive director positions.

(3)(c) approve all contracts and expenditures by boards within the department. A board within the department may not enter into a contract or expend funds without the approval of the commissioner.

(d) *provide oversight and supervision of the duties and authority exercised by boards regulated under Title 37, other than chapters 42, 43, and 61, by exercising active supervision authority to approve or disapprove any board action identified by the department as restraining or potentially restraining competition in trade or commerce. Subject to the provisions of [section 4(6)], the commissioner shall determine if the board action is made or taken pursuant to a clearly articulated state policy and if the restraint or potential restraint of trade or commerce is reasonable and necessary to protect the public health, safety, or welfare. Any approval or disapproval under this subsection (1)(d) must be in writing, comply with the provisions in [section 4], and set forth the particular reasons supporting the determination. A disapproval determination may include the commissioner’s recommended modifications, if any, for the board’s consideration. The commissioner may assign duties, as necessary, but may not assign final approval or disapproval.*

(2) *If the department disapproves or modifies any board action under subsection (1)(d), the department and not the board may be liable for claims resulting from the disapproval or modification.*

(3) *As used in this chapter, the following definitions apply:*

(a) *“Board action” means a policy, rule, or other action taken by a board subject to subsection (1)(d).*

(b) *“Commissioner” means the commissioner of labor and industry unless otherwise specified.”*

Section 3. Section 37-1-131, MCA, is amended to read:

“37-1-131. Duties of boards – quorum required. (1) *Under the active supervision of the state as described in 37-1-121(1)(d), a quorum of each board within the department shall:*

(a) (i) set and enforce standards and adopt and enforce rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within the board’s jurisdiction; and

(ii) apply the standards and rules referred to in subsection (1)(a)(i) in a manner that does not discriminate against any person licensed by the board with regard to how the standards and rules are applied to other persons licensed by the board and that does not restrain trade or competition unless necessary to protect public health and safety;

(b) except as provided in 37-1-321, sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within the board's jurisdiction. The hearings must be conducted by a hearings examiner when required under 37-1-121.

(c) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (1)(b), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71;

(d) take disciplinary action against the license of a person in a medical assistance program under chapter 3, 4, 7, or 8 if, in the period under contract, the licensee has on three separate occasions returned to the use of a prohibited or proscribed substance. The requirements of this subsection (1)(d) may not be construed as affecting the rights of an employer to evaluate, discipline, or discharge an employee.

(e) pay to the department the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(f) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(2) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(3) A board that requires continuing education or continued state, regional, or national certification for licensees shall require licensees reactivating an expired license to submit proof of meeting the requirements of this subsection for the renewal cycle.

(4) The board *under the active supervision of the state as described in 37-1-121(1)(d)* or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination; ~~and~~

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; ~~and~~

~~(5)(d) A board may, at the board's discretion, request that the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board.~~

~~(6)(5) A board shall adopt rules governing the provision of public notice as required by 37-1-311."~~

Section 4. Active supervision – rebuttable presumption – reconsideration. (1) (a) Before making a determination approving or disapproving a board action subject to active supervision as provided in 37-1-121(1)(d), the commissioner of labor and industry shall:

(i) notify the affected board and the economic affairs interim committee in writing of the particular action identified for commissioner review;

(ii) give the board a timeframe of at least 30 days in which to provide the commissioner with written comments and materials justifying the proposed action; and

(iii) meet with the board or its representatives regarding the board action.

(b) The commissioner may require that the board provide the commissioner with other relevant information, including but not limited to comments, documents, or other material submitted to the board regarding the board action.

(c) The commissioner may approve a board action subject to active supervision under 37-1-121(1)(d) without the notice and opportunity for board comment required under subsection (1)(a) if the commissioner has sufficient information to act.

(2) (a) There is a rebuttable presumption that if a board has not received a written notice as provided in 37-1-121(1)(d) regarding a board action within 30 days, that the board action is presumed to be approved by the commissioner because the department has determined the board action will not unreasonably restrain or potentially unreasonably restrain competition in trade or commerce.

(b) At any time a board may request that the department or commissioner confirm in writing that a board action is not subject to active supervision under 37-1-121(1)(d) because the commissioner has determined that the board action will not unreasonably restrain or potentially unreasonably restrain competition in trade or commerce.

(3) If the commissioner determines that a board action is subject to active supervision procedures under 37-1-121(1)(d) and this section, the commissioner shall issue a written determination within 30 days after meeting with the board or its representatives as provided in subsection (1).

(4) (a) The board may request that the commissioner reconsider the determination. A request under this subsection (4) must be in writing, provide any additional supporting materials or arguments, and be received by the commissioner within 10 days after issuance of the commissioner's written determination.

(b) The commissioner may meet with the board or representatives of the board as part of the reconsideration process.

(c) The commissioner shall issue a written reconsideration decision within 10 days of receiving the written request for a reconsideration or within 10 days after meeting with the board or its representatives regarding the redetermination.

(5) This section may not be construed to mean that the commissioner's determination under 37-1-121(1)(d) or the process described in this section is a contested case proceeding as defined in 2-4-102.

(6) (a) After the economic affairs interim committee is notified of the commissioner's decision to issue a written determination or redetermination, the committee shall notify the commissioner if the committee plans to provide an opportunity for public comment on the commissioner's action at the next committee meeting.

(b) The commissioner shall notify the economic affairs interim committee of a final determination under this section. The committee shall follow the procedures in Title 2, chapter 4, if the committee decides to conduct a review. A final determination of the commissioner may be suspended as provided in 2-4-305(9) whether the determination is for a rule or for another board action.

Section 5. Rules governing active supervision. The department may adopt rules necessary to carry out active supervision of board actions as provided for in 37-1-121 and [section 4].

Section 6. Codification instruction. [Sections 4 and 5] are intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [sections 4 and 5].

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Termination. [This act] terminates July 1, 2021.

Approved May 4, 2017

CHAPTER NO. 323

[HB 144]

AN ACT GENERALLY REVISING MOTOR VEHICLE LAWS; REVISING DRIVER'S LICENSE REQUIREMENTS AND DEALER LICENSE REQUIREMENTS; REVISING ISSUANCE OF DISABILITY PLACARDS AND REQUIRING THE DEPARTMENT OF JUSTICE TO ADOPT RULES RELATING TO ISSUANCE OF DISABILITY PLACARDS; REQUIRING STAGGERED TERMS FOR MOTOR VEHICLE DEALER LICENSES; REVISING DRIVER RECORDS AND DRIVER'S LICENSE SUSPENSION AND REVOCATION LAWS; REQUIRING THE DEPARTMENT OF JUSTICE TO ADOPT RULES GOVERNING THE DESTRUCTION OF DRIVER RECORDS; PROVIDING FOR LEARNER LICENSES AND REPLACING CERTAIN PERMITS WITH LEARNER LICENSES; REVISING REQUIREMENTS FOR OPERATING A VEHICLE OVER RAILROAD CROSSINGS; CLARIFYING PENALTIES FOR CERTAIN COMMERCIAL MOTOR VEHICLE VIOLATIONS; REVISING TESTING FOR A CHARGE OF AGGRAVATED DUI; REVISING DEFINITIONS FOR CERTAIN MOTOR VEHICLES; IMPOSING A FEE FOR ISSUANCE OF A DECAL FOR CERTAIN OUT-OF-STATE VEHICLES REGISTERED IN MONTANA AND PROVIDING FOR DISPOSITION OF THE FEE; CLARIFYING CERTAIN MOTOR VEHICLE WEIGHT LIMITS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 49-4-304, 61-1-101, 61-3-203, 61-3-303, 61-3-321, 61-3-701, 61-4-101, 61-4-120, 61-4-124, 61-4-125, 61-4-127, 61-4-128, 61-4-131, 61-5-106, 61-5-107, 61-5-108, 61-5-114, 61-5-122, 61-5-125, 61-5-132, 61-5-206, 61-6-158, 61-8-347, 61-8-465, 61-8-812, 61-11-102, AND 61-11-204, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 49-4-304, MCA, is amended to read:

“49-4-304. Special license plate or card placard to be provided and displayed – additional cards placards allowed for owners of more than one vehicle – rulemaking required. (1) Except as authorized in 49-4-303, unless the department of justice issued a special license plate under 61-3-332(9) or 61-3-458(4)(b) or (4)(i) indicating a special parking privilege, the department shall provide a *card placard* to be displayed on or in a motor vehicle to indicate a parking privilege granted under this part. The special license plate must be affixed to the vehicle according to 61-3-301, or the *card placard* must be prominently displayed in the windshield of a vehicle when the parking privilege is being used by the person with a disability in a vehicle other than the one to which a special license plate is affixed.

(2) Subject to the provisions of 49-4-301 through 49-4-305, a person who is eligible to receive a special parking permit ~~and who owns more than one motor vehicle may request and the department of justice shall provide additional cards described in subsection (1) to equal the number of motor vehicles, other than commercial vehicles, owned by the person may apply to the department for one or more placards.~~

(3) *The department shall issue up to two placards to eligible individuals and may issue additional placards. The department shall adopt rules to determine the process for an individual to request additional placards.*

~~(3)(4)~~ Upon application under 49-4-301, a person with a disability who does not hold a driver's license or does not own a vehicle may receive a ~~card described in subsection (1)~~ placard to be displayed in a vehicle in which the person with a disability is being conveyed when the parking privilege is being used.

~~(4)(5)~~ The ~~card~~ placard must bear a representation of a wheelchair as the symbol of a person with a disability."

Section 2. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the

motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) “Custom vehicle” means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer’s original design or has a body constructed from nonoriginal materials.

(13) “Customer identification number” means:

(a) a driver’s license or identification card number when the customer is an individual who has been issued a driver’s license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) “Dealer” means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (14)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) “Declared weight” means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) “Department” means the department of justice acting directly or through its duly authorized officers or agents.

(17) “Dolly or converter gear” means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) “Domiciled” means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity’s registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) “Downgrade” means the removal of a person’s privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) “Driver” means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

- (a) any temporary license or ~~instruction permit~~ *learner license*;
- (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;
- (c) any nonresident's driving privilege;
- (d) a motorcycle endorsement; or
- (e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that:

- (a) has four wheels;
- (b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;
- (c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;
- (d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license ~~or permit~~ limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or ~~instruction permit~~ *learner license*;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "house trailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) (a) “Motor carrier” means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) (a) “Motorcycle” means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

(d) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) “Motor-driven cycle” means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) “Motor home” means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

(45) (a) “Motorized nonstandard vehicle” means a vehicle, on or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer’s certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a “pocket rocket”.

(c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) “Motor vehicle” means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily

used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits ~~and a motor capable of producing not more than 50 horsepower.~~

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks

surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used

so as to have become what is commonly known as “secondhand” within the ordinary meaning of that term.

(89) “Van” means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) “Vehicle” means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) “Vehicle identification number” means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) “Vessel” means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) “Wholesaler” means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1.”

Section 3. Section 61-3-203, MCA, is amended to read:

“61-3-203. Fee for original certificate of title – disposition. (1) Until June 30, 2026, a person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of:

(a) \$10 if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that weighs ~~less than~~ 1 ton *or less*; or

(b) \$12 if the vehicle for which application is made is a light vehicle or a truck or bus that weighs ~~less than~~ 1 ton *or less*.

(2) The amount of \$5 of the fee imposed pursuant to subsection (1) must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550, and the remaining amount must be deposited in the state general fund.

(3) Beginning July 1, 2026, the fee imposed in subsection (1)(a) is \$5 and the fee imposed in subsection (1)(b) is \$7 and all fees paid pursuant to this section must be deposited in the state general fund.”

Section 4. Section 61-3-303, MCA, is amended to read:

“61-3-303. Original registration – process – fees. (1) Except as provided in 61-3-324, a Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state.

(2) Except as provided in subsection (3), the county treasurer or an authorized agent shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or

(b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(3) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.

(4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).

(7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole

trailer under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred *or unless it was registered under 61-3-701.*

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.

(11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301."

Section 5. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses ~~under that weigh 1 ton or less; and for logging trucks less than that weigh 1 ton or less~~ is as follows:

- (a) if the vehicle is 4 or less years old, \$217;
- (b) if the vehicle is 5 through 10 years old, \$87; and
- (c) if the vehicle is 11 or more years old, \$28.

(3) (a) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- ~~(a)(i)~~ if the declared weight is less than 6,000 pounds, \$61.25; or
- ~~(b)(ii)~~ if the declared weight is 6,000 pounds or more, \$148.25.

(b) *If a trailer, semitrailer, or pole trailer is registered under 61-3-701, the fees required in subsection (3)(a) must be paid annually.*

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721."

Section 6. Section 61-3-701, MCA, is amended to read:

"61-3-701. Out-of-state vehicles used in gainful occupation to be registered – reciprocity – decal fee. (1) A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is registered in another jurisdiction on the highways of this state if the vehicle is used for hire, compensation, or profit or if the person is engaged in gainful occupation or business enterprise in the state, including highway work, unless the motor vehicle, trailer, semitrailer, or pole trailer is registered at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by 61-3-321, 61-3-529, or 61-3-537, the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the vehicle will be located or operated in Montana.

(2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the owner of the motor vehicle, trailer, semitrailer, or pole trailer a registration receipt and a registration decal indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is registered. The registration decal must at all times be displayed ~~upon~~ *on the rear of the motor vehicle, trailer, semitrailer, or pole trailer* when operated or driven upon roads and highways of this state during the registration period indicated on the receipt *and may not be obstructed from plain view.*

(3) The registration receipt does not constitute evidence of ownership but may be used only for registration purposes. A Montana certificate of title may not be issued for a motor vehicle, trailer, semitrailer, or pole trailer registered under this section.

(4) This section is not applicable to:

(a) a motor vehicle covered by a valid and existing reciprocal agreement or declaration entered into under Montana law; or

(b) *a motor vehicle that is:*

(i) *registered in another jurisdiction by an insurance company licensed to conduct business in this state;*

(ii) *being used by an employee of the insurance company to assist residents of this state with insurance claims; and*

(iii) *operated on the highways of this state for no more than 90 consecutive days.*

(5) *In addition to the fees and taxes required for registration, a fee of \$10 must be collected when a decal required under subsection (2) is issued. For each \$10 fee collected, \$8 must be deposited in the account established under 61-6-158 and \$2 must be deposited in the general fund."*

Section 7. Section 61-4-101, MCA, is amended to read:

"61-4-101. Types of licenses and terms – common application – bonds – zoning. (1) Except as provided in 61-4-120 and 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, or special mobile equipment that is not registered in the person's name unless the person is the holder of a license issued by the department under this part.

(2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section.

(b) A new dealer's license authorizes the holder to sell:

(i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and

(ii) any used motor vehicle, used power sports vehicle, or used trailer.

(c) A used dealer license authorizes the holder to sell any used motor vehicle, used power sports vehicle, or used trailer.

(d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the broker does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being purchased, sold, or exchanged.

(e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take possession of a used vehicle owned by another person through consignment, bailment, or any other arrangement and to sell to the highest bidder when all bidders are licensed vehicle dealers, wholesalers, or wrecking facilities.

(f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle dealer, an auto auction, or another wholesaler.

(3) *Dealer license expiration dates must be staggered throughout the year.*

~~(3)~~(4) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the department is valid until:

(a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or

(b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles, power sports vehicles, or trailers.

~~(4)~~(5) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of

law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(5)(6) To be qualified for licensure, an applicant shall provide to the department the following information:

(a) the name under which the applicant intends to conduct business and the applicant's name, the street address and, if different, mailing address for the business, and customer identification number;

(b) the name, date of birth, and social security number of any person who:

(i) possesses or will possess an ownership interest in the business for which the license is sought;

(ii) is a corporate officer or the managing member of a business entity applying for the license; or

(iii) is or will be designated by the applicant to manage or oversee the applicant's business;

(c) for each person subject to the provisions of subsection ~~(5)(b)~~ (6)(b), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in Montana or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(d) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any motorboat, snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for demonstration or loan to a customer or otherwise operated by a customer in the regular course of the applicant's business and must be for a minimum of 1 year;

(e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale, if applicable, and of a permanent nonresidential building that will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot

does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet.

(f) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business-permitting agency.

(g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(h) if the applicant is seeking a new motor vehicle dealer's license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles, power sports vehicles, or trailers; and

(iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter.

(6)(7) If an applicant wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(7)(8) Each application under this section must be accompanied by the following fees:

(a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and

(b) for an auto auction license, the fee provided for in 61-4-120.

(8)(9) (a) Except as provided in subsection (8)(b) (9)(b), an applicant for a dealer's license, broker's license, wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

(b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall file a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal watercraft, snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the highway, shall file a bond of \$5,000.

(c) All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. All bonds must be approved by the department, must be filed in its office, and must be renewed annually."

Section 8. Section 61-4-120, MCA, is amended to read:

"61-4-120. Auto auction – restrictions – annual report – issuance, use, and fees for demonstrator plates. (1) (a) An auto auction may not sell used motor vehicles by retail sale.

(b) An auto auction licensed under this part may auction a new motor vehicle only if the auto auction is authorized by a new motor vehicle manufacturer, importer, distributor, or representative, for the purpose of

conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(2) On or before ~~December 31 of each year~~ *the 15th day of the month prior to the dealer license expiration month*, an auto auction shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101. The report must contain information concerning owner identity, other ownership interests, felony conduct, general liability insurance status, surety bond filings, and any other relevant information requested by the department. The fee required for each first-time applicant is \$500, and when the annual report is filed in subsequent years, it must be accompanied by a filing fee of \$100.

(3) An auto auction that is an authorized agent may issue a temporary registration permit to a person who buys a motor vehicle, power sports vehicle, or trailer at the auction, pursuant to 61-3-224. Within 30 days following the date of delivery of the motor vehicle, power sports vehicle, or trailer, the auto auction shall provide the purchaser with the assigned certificate of title or, if a certificate of title for the motor vehicle, power sports vehicle, or trailer has not been issued in this state, a copy of the then-current registration receipt or the certificate and any related documents for each motor vehicle, power sports vehicle, or trailer. It is unlawful for the auto auction to issue more than one temporary registration permit for each motor vehicle, power sports vehicle, or trailer sale.

(4) (a) Upon the issuance of an auto auction license and payment of a \$5 fee for each plate, the department shall furnish to the auto auction one or more demonstrator plates that may be used to transport inventory motor vehicles to and from a point of storage or a point of delivery in this state and to and from the auto auction's place of business, for road testing authorized motor vehicles, or for moving motor vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the motor vehicle.

(b) Auto auctions may appoint designated persons, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing similar types of work upon a motor vehicle.

(c) When applying for license plates, an auto auction shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the change has occurred.

(d) An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's temporary registration permit and license plate privileges if an auto auction issues, authorizes the use of, or uses a temporary registration permit or an auto auction license plate in violation of the provisions of this section.

(5) (a) An auto auction licensed under this section shall validate the sale of a motor vehicle, a power sports vehicle, or a trailer through its auction by stamping its name and license number upon the certificate of title at a location on the certificate of title, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the certificate of title between the transferor and transferee. If the certificate of title lacks adequate space for the auto auction to place its stamp, the auction may provide the transferee a copy of the auction invoice bearing the:

(i) name and license number of the auction, along with an indication of the year, make, model, and identification number of the motor vehicle, power sports vehicle, or trailer;

(ii) name, address, and signature of the transferor;

(iii) name, license number, and signature of the transferee; and

(iv) date the motor vehicle was sold through the auction.

(b) The invoice must be attached to the certificate of title and must be presented to the department with any application for title."

Section 9. Section 61-4-124, MCA, is amended to read:

"61-4-124. Annual report – filing fees – grace period for dealer and demonstrator plates – restrictions imposed upon failure to file. (1) On or before ~~December 31 of each year~~ *the 15th day of the month prior to the dealer license expiration month*, a dealer shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes concerning owner identity, other ownership interests, felony conduct, general liability insurance status, and surety bond filings, as originally required under 61-4-101, that may have occurred in that calendar year and to provide any other relevant information requested by the department.

(2) (a) The department may require a dealer to submit one or more current photographs of the dealer's established place of business or the signage for the business with the dealer's annual report.

(b) If a dealer seeks to change the geographic location of the dealer's established place of business, the dealer shall also provide information concerning local land use planning, zoning, and business permitting compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of 61-4-101.

(3) Except as provided in subsection (4)(c), the annual report must be accompanied by a \$30 filing fee.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a used dealer shall also certify, under penalty of law, to the retail sale of 12 or more used motor vehicles, power sports vehicles, or trailers during the calendar year for which the annual report is filed. A used dealer licensed for less than a full calendar year in the year for which the report is filed shall certify, under penalty of law, to the retail sale of an average of at least one used motor vehicle, power sports vehicle, or trailer for each calendar month or portion of a calendar month that the license was in effect.

(b) (i) A used dealer who cannot certify, under penalty of law, to the number of retail sales required under subsection (4)(a) in a calendar year for which the report is filed must pay a fee of \$25 in addition to the filing fee required in subsection (3).

(ii) A used dealer who is also a qualified tow truck operator, as defined in 61-8-903, and who, in the dealer's annual report, cannot certify, under penalty of law, to the retail sale of five or more used motor vehicles, power sports

vehicles, or trailers during the calendar year for which the report is filed shall pay a fee of \$25 in addition to the filing fee required in subsection (3).

(iii) A dealer licensed as a motor vehicle wrecking facility under Title 75, chapter 10, part 5, is exempt from the minimum retail sales reporting requirements of this subsection (4).

(5) A dealer whose annual report is received by the department on or before ~~December 31 of the calendar year~~ *the 15th day of the month prior to the dealer license expiration month* may display or use dealer or demonstrator plates or identification cards assigned and registered for the prior calendar year through the last day of February of the following year ~~until the dealer license expiration date~~.

(6) ~~(a) On or after January 1 of the year following the calendar year for which an annual report and filing and registration fees are due under this section, the department may not renew dealer or demonstrator plates or identification cards for a dealer who has not filed the annual report and paid the fees due under this section.~~

~~(b) On or after March 1 of the year following the calendar year for which an annual report and filing and registration fees are due under this section, the department may not issue or transfer a title under the provisions of 61-4-111(1) to or from a dealer who has not filed the annual report and paid the fees, and the department~~

~~(6) On or after the first day following the dealer license expiration date, the department:~~

~~(a) may not renew dealer or demonstrator plates or identification cards for a dealer who has not filed the annual report and paid the fees due under this section;~~

~~(b) may not issue or transfer a title under the provisions of 61-4-111(1) to or from a dealer who has not filed the annual report and paid the fees due under this section; and~~

~~(c) shall initiate an administrative action under the provisions of 61-4-105(2) to revoke the dealer's license unless the dealer voluntarily surrenders the license, along with any previously assigned dealer and demonstrator plates or identification cards, to the department for cancellation."~~

Section 10. Section 61-4-125, MCA, is amended to read:

"61-4-125. Wholesaler restrictions -- demonstrator plates -- annual report. (1) The retail sale of used vehicles by a wholesaler is prohibited.

(2) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued demonstrator plates, as provided in 61-4-129, for use on any type of motor vehicle or trailer that a wholesaler is authorized to sell. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129.

(3) (a) ~~On or before December 31 of each year~~ *the 15th day of the month prior to the dealer license expiration month*, a wholesaler shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101. The report must contain information concerning owner identity, other ownership interests, felony conduct, general liability insurance status, surety bond filings, and any other relevant information requested by the department. A \$30 filing fee must be submitted with the report.

(b) Additionally, the wholesaler shall certify, under penalty of law, that the wholesaler sold 12 or more motor vehicles, power sports vehicles, or trailers to a dealer, an auto auction, or another wholesaler during the calendar year for which the annual report is filed. A wholesaler who was licensed for less than a

full calendar year shall certify, under penalty of law, to the sale of an average of at least one motor vehicle, power sports vehicle, or trailer a calendar month or portion of a calendar month during which the license was in effect.

(c) A wholesaler who cannot, under penalty of law, certify the number of motor vehicle sales required under subsection (3)(b) shall pay a fee of \$25 in addition to the filing fee required in subsection (3)(a)."

Section 11. Section 61-4-127, MCA, is amended to read:

"61-4-127. Broker requirements – restrictions – annual report – fees. (1) A broker may not display a motor vehicle, power sports vehicle, or trailer at the broker's established place of business.

(2) A broker shall install and maintain telephone service at the broker's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located, or if a cellular service is used, the broker's cell phone number must be posted at the broker's established place of business.

(3) (a) A broker shall maintain a record of every purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer negotiated by the broker for compensation upon behalf of a client. The record must include the name, address, and customer identification number of:

(i) the broker's client;

(ii) the dealer or person from whom the client purchased, sold, or exchanged a motor vehicle, power sports vehicle, or trailer; and

(iii) the financial institution, if any, that financed the client's purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer.

(b) The broker shall also maintain a record of each motor vehicle, power sports vehicle, or trailer for which a deal was brokered, including a description of the vehicle, power sports vehicle, or trailer, its identification number, and the source or sources of compensation received by the broker for each deal.

(c) All records must be physically located and maintained within the building referred to in 61-4-101. Records must be preserved for at least 5 years after the date of the purchase, sale, or exchange negotiated by the broker. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter.

(4) On or before ~~December 31 of each year~~ *the 15th day of the month prior to the dealer license expiration month*, a broker shall submit an annual report, in a form or manner prescribed by the department, to the department pertaining to any changes concerning owner identity, other ownership interests, felony conduct, or surety bond filings, as originally required under 61-4-101, that may have occurred during that calendar year and providing any other relevant information required by the department.

(5) The annual report must be accompanied by a \$30 filing fee. The annual report must include the number of purchases, sales, or exchanges negotiated by the broker during the calendar year for which the annual report is filed."

Section 12. Section 61-4-128, MCA, is amended to read:

"61-4-128. Common standards – dealer plates – demonstrator plates – identification cards – fees. (1) (a) Dealer, demonstrator, and courtesy license plates authorized under this part must be designed by the department in a manner that is similar to standard license plates furnished under 61-3-332, but the word "dealer", "demonstrator", or "courtesy" must be included in the plate design.

(b) Dealer, demonstrator, and courtesy license plates must be numbered in a manner that is readily distinguishable from other plate styles issued by the department. The numbering system for dealer plates must contain

the distinctive license number assigned by the department to a dealer and a number or alphanumeric identification mark that relates to the assignment of sets of dealer plates to a dealer. The numbering system for demonstrator plates may be sequential and unrelated to the number of demonstrator plates or the distinctive license number assigned to a dealer, wholesaler, or auto auction.

(c) Dealer, demonstrator, and courtesy plates issued under this part must be replaced on the same cycle that is required for standard license plates under 61-3-332.

(d) Except as provided in 61-4-124, dealer, demonstrator, and courtesy plates must display a registration decal, affixed as prescribed by the department, for the calendar year for which use of the plate or plates is authorized under this part.

(2) (a) Identification cards must be designed by the department and furnished to dealers to authorize the demonstration of a motorboat or personal watercraft, a snowmobile, or an off-highway vehicle by a dealer licensed under this part or a customer of a dealer licensed under this part. Each identification card must include the dealer's name and address and the license number assigned by the department to the dealer and must designate the type of power sports vehicle for which its use is authorized, such as a motorboat or personal watercraft, snowmobile, or off-highway vehicle.

(b) The department may use the same numbering system for identification cards as it uses for demonstrator plates.

(3) (a) Upon issuance of a license to a dealer whose business includes the sale of motorboats or personal watercraft, snowmobiles, or off-highway vehicles, the department shall furnish identification cards to a dealer as follows:

(i) for a dealer who sells motorboats or personal watercraft, one identification card;

(ii) for a dealer who sells snowmobiles, two identification cards; and

(iii) for a dealer who sells off-highway vehicles, two identification cards.

(b) The dealer may obtain additional identification cards for \$2, as needed, and upon submitting justification for the need to the department.

(4) (a) An identification card issued to a dealer who sells motorboats or personal watercraft may be displayed on a dealer's motorboat or personal watercraft while the motorboat or personal watercraft is operating for a purpose related to the buying, selling, exchanging, or performance testing of the motorboat or personal watercraft by the dealer, manufacturer, or potential buyer.

(b) An identification card issued to a dealer who sells snowmobiles must be carried by the dealer when demonstrating the dealer's snowmobiles or by the dealer's customer.

(c) An identification card issued to a dealer who sells off-highway vehicles must be carried by the dealer when the dealer's off-highway vehicles are being demonstrated for sale purposes or by the dealer's customer.

(5) (a) All dealer, demonstrator, and courtesy plates and identification cards issued under this part ~~expire on December 31~~ *are expired on the first day following the dealer license expiration date* of the year of issue and must be renewed annually.

(b) A dealer, wholesaler, or auto auction that files the annual report as required under 61-4-120, 61-4-124, or 61-4-125 ~~on or before December 31 of the calendar year~~ may display or use dealer or demonstrator plates and identification cards assigned for the prior calendar year ~~through the last day of February of the following year~~ *until the dealer license expiration date."*

Section 13. Section 61-4-131, MCA, is amended to read:

“61-4-131. Definitions. As used in this part, the following definitions apply:

(1) “Broker” means a person:

(a) who engages in the business of offering to procure or procuring a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle on behalf of another; or

(b) who represents to the public through solicitation, advertisement, or otherwise that the person is one who offers to procure or procures a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle by negotiating purchases, contracts, sales, or exchanges on behalf of another and who does not store, display, or take ownership of a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle.

(2) (a) “Dealer”, except as provided in subsection (2)(b), includes a new dealer or a used dealer licensed under this part.

(b) For purposes of 61-4-132 through 61-4-135, 61-4-137, 61-4-141, and 61-4-150, the term is limited to a new motor vehicle dealer as defined in 61-4-201.

(3) (a) “Designated family member” means the spouse, child, grandchild, parent, brother, or sister of a new motor vehicle dealer, as defined in 61-4-201, who:

(i) in the case of a deceased dealer:

(A) is entitled to inherit the dealer’s ownership interest in the dealership under the terms of the dealer’s will or under the laws of intestate succession of this state; or

(B) has otherwise been designated in writing by a deceased dealer to succeed the deceased in the motor vehicle dealership; or

(ii) in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer’s property.

(b) The term includes the appointed and qualified personal representative and the testamentary trustee of a deceased dealer.

(4) (a) “Established place of business” means the geographic location upon which a permanent building is located that is actually occupied either continuously or at regular periods by a person licensed under this part. A building is actually occupied if the licensee’s books and records are kept in the building and, except for approved off-premises sales, the licensee’s business is transacted within the building.

(b) A licensee’s established place of business may also include the geographic location of one or more physical lots upon which vehicles are displayed for sale, as long as the requirements of 61-4-101~~(5)(e)~~~~(6)(e)~~ regulating the distance between display lots and the recordkeeping building are met.

(c) The geographic location of the permanent building actually occupied by the licensee or the geographic location of the physical lots upon which vehicles are displayed for sale may be identified by street address, legal description, or other reasonably identifiable description, as prescribed by the department.

(5) “New”, when describing a motor vehicle, power sports vehicle, or trailer, means that the motor vehicle, power sports vehicle, or trailer has not been the subject of a retail sale.

(6) “Parking”, when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(7) (a) "Power sports vehicle" includes a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle.

(b) A motorcycle or quadricycle must be treated as an off-highway vehicle if the motorcycle or quadricycle is not originally equipped for use on a highway.

(c) A sailboat that is 12 feet in length or longer is treated as a motorboat.

(8) (a) "Trailer" has the meaning provided in 61-1-101, but does not include a trailer that has an unloaded weight of less than 500 pounds.

(b) A travel trailer, semitrailer, or pole trailer is treated as a trailer under this part.

(9) "Used", when describing a motor vehicle, power sports vehicle, or trailer, means that title to the motor vehicle, power sports vehicle, or trailer has been transferred because of a prior retail sale."

Section 14. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits – ~~traffic education learner licenses and permits – temporary licenses driver's permits.~~ (1) (a) The department may issue ~~an instruction permit a learner license~~, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in subsections (1)(b) and (1)(c), ~~an instruction permit a learner license~~ entitles the ~~permitholder licensee~~, while in immediate possession of the ~~permit license~~ and accompanied by a licensed driver seated beside the ~~permitholder licensee~~, to drive a motor vehicle other than a motorcycle upon the public highways.

(b) If the ~~permitholder licensee~~ is under 18 years of age, the driver supervising the ~~permitholder licensee~~ must be a parent or a legal guardian of the ~~permitholder licensee~~ or, with the permission of the ~~permitholder's licensee's~~ parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a ~~permitholder licensee~~ who is under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be properly restrained in a child safety restraint.

(c) A person holding ~~an instruction permit a learner license~~ for a motorcycle may drive a motorcycle upon a public highway if the person is not carrying a passenger, has immediate possession of the ~~permit license~~, and is under the immediate and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the ~~permitholder licensee~~ is under 18 years of age:

(i) a motorcycle-endorsed licensed driver who is riding with the ~~permitholder licensee~~ and who is operating a separate motorcycle or other motor vehicle; or

(ii) a licensed driver who is operating a separate motor vehicle if the ~~permitholder licensee~~ has successfully completed a motorcycle safety training course through a cooperative driver testing program certified under 61-5-110.

(2) The department may issue a ~~traffic education~~ learner license, which is valid for 1 year from the date of issuance, to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district that offers the course. A ~~traffic education~~ learner license entitles the licensee to operate a motor vehicle ~~only~~ when accompanied by an approved instructor, ~~or a licensed parent or guardian, or other driver as provided in subsection (1)(b)~~ and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic

education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

(i) a motor vehicle when an approved instructor is seated beside the permittee; or

(ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit, as provided in 61-5-120."

Section 15. Section 61-5-107, MCA, is amended to read:

"61-5-107. Application for license, ~~instruction permit~~, or motorcycle endorsement. (1) Each application for an ~~instruction permit~~ *a learner license*, driver's license, commercial driver's license, or motorcycle endorsement must be made ~~upon~~ *on* a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must include the full legal name, date of birth, sex, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must provide the following additional information:

(a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application;

(b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

(c) a brief description of any physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

(e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium.

(b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

(5) An individual who is under 26 years of age but at least 15 years of age and who is required to register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an opportunity to fulfill those registration requirements in conjunction with an application for ~~an instruction permit~~ *a learner license*, driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an individual must be provided an opportunity to be registered by the selective service system upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by the department to the selective service system. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 16. Section 61-5-108, MCA, is amended to read:

"61-5-108. Application of minors – imputed liability. (1) The application of a person who is under 18 years of age for ~~an instruction permit~~ *a learner license*, driver's license, or medical assessment and rehabilitation driving permit must be signed and verified before a person authorized to administer oaths or an employee of the department by a parent of the applicant or, if none is available, by some other responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor.

(2) Any negligence or willful misconduct of a minor who is under 18 years of age when driving a motor vehicle upon a highway must be imputed to a person who has signed the application of the minor for ~~an instruction permit~~ *a learner license*, driver's license, or medical and rehabilitation driving permit. The person who signs the application is jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct unless a motor vehicle liability policy, as provided for in chapter 6 of this title, covering

the minor is in effect, in which case there is no imputed liability as described in this section.”

Section 17. Section 61-5-114, MCA, is amended to read:

“61-5-114. Replacement license or permit – veteran designation.

(1) ~~If an instruction permit a learner license~~ or a driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on ~~an instruction permit a learner license~~ or a driver's license issued to the person, the person to whom the ~~permit or~~ license was issued may, upon the payment of a fee of \$10, obtain a replacement ~~permit or~~ license, upon furnishing proof satisfactory to the department that the ~~permit or~~ license has been lost or destroyed or that personal information has changed.

(2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-147, the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement.

(3) The department shall include the word “veteran” on the face of a driver's license if the requirements of 61-5-111(7) are met by the person applying for the driver's license.”

Section 18. Section 61-5-122, MCA, is amended to read:

“61-5-122. Low-speed restricted driver's license. (1) The department may issue a low-speed restricted driver's license to a person who is physically or otherwise impaired in a manner and degree that prevent the person from safely operating a motor vehicle across the range of speeds permitted or required on a public highway.

(2) (a) To qualify for a low-speed restricted driver's license, an applicant shall submit to the department a medical evaluation or statement from a treating physician that attests to the person's impairment and resulting inability to safely operate a motor vehicle across the range of speeds permitted or required on a public highway.

(b) The applicant must be otherwise qualified for a driver's license under this chapter and shall apply for a driver's license under 61-5-107, pay the fees required in 61-5-111, and pass the vision test, the knowledge test, and the road test required under 61-5-110. The road test must be modified to conform to the operational limitations of the vehicle.

(3) The department may issue a low-speed restricted ~~instruction permit learner license~~, valid for 30 days from the date of issuance, to a person who qualifies for a low-speed restricted driver's license under this section and who passes the vision test and knowledge test required in 61-5-110. A ~~permitholder licensee~~ may operate a low-speed electric vehicle or golf cart pursuant to 61-8-378 while in the immediate possession of the ~~permit license~~ and accompanied by a licensed driver seated beside the ~~permitholder licensee~~.”

Section 19. Section 61-5-125, MCA, is amended to read:

“61-5-125. Authority of department – rulemaking authority. (1) The department shall administer and enforce the provisions of this chapter.

(2) The department shall adopt rules setting standards to govern driver's license examinations and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licensure and may include

minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended practices for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation, or condition as a justification for denial of a license.

(3) The department shall adopt rules governing the issuance of a hardship license to an underage applicant, including but not limited to an applicant who is 14 years of age or older who holds a valid ~~instruction permit or a traffic education~~ learner license under 61-5-106. The rules must consider whether a hardship license is needed because the applicant's licensed parent or guardian is not available to accompany the ~~permitholder~~ licensee due to employment or circumstances related to the operation of a farm or ranch and the ~~permitholder~~ licensee is required to drive more than 7 miles from the ~~permitholder's licensee's~~ residence to the ~~permitholder's licensee's~~ school bus stop.

(4) The department may adopt additional rules governing:

(a) acceptable methods of proof of identification that must be supplied by a person upon application for or renewal of a driver's license;

(b) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license fees;

(c) circumstances under which the department may issue a probationary license to a person whose license has been suspended or revoked or a person whose license is subject to a discretionary suspension or revocation;

(d) restrictions to be imposed upon a probationary license;

(e) renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty;

(f) issuance of a replacement driver's license; and

(g) a determination of the driver's license expiration date, minimum and maximum license terms, and license renewal requirements for a driver's license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law."

Section 20. Section 61-5-132, MCA, is amended to read:

“61-5-132. Prerequisites for issuance of driver’s license to minor.

(1) The department may issue a driver’s license, subject to the restrictions of 61-5-133, to a person under 18 years of age if the person:

(a) has held ~~an instruction permit or traffic education~~ *a learner’s learner license or traffic education permit* for a period of not less than 6 months;

(b) has passed a road test or a skills test, as provided in 61-5-110;

(c) presents written certification from the person’s parent or legal guardian that states that the person has had at least 50 hours of driving experience, 10 of which were at night, during which the person was supervised by a parent, a legal guardian, or a person at least 18 years of age, with the consent of the parent or legal guardian, who had a valid driver’s license; and

(d) presents written certification from the person’s parent or legal guardian that states that, during the 6-month period immediately preceding application for a driver’s license, the person has not been convicted of a traffic violation or convicted of or adjudicated for an offense involving the use of alcohol or drugs and the person has no pending traffic, alcohol, or drug citations.

(2) If a parent or a legal guardian for a person under 18 years of age cannot certify that the person has a 6-month conviction-free record for traffic, alcohol, and drug violations and no pending traffic, alcohol, or drug citations, the department may extend the person’s ~~instruction permit or traffic education learner’s learner~~ license for an additional 1-year period or until the person’s 18th birthday, whichever occurs first.

(3) (a) The requirements of subsections (1)(a) through (1)(c) do not apply to a person under 18 years of age who has been licensed in another state for at least 6 months and surrenders a valid driver’s license from that state.

(b) The requirements of subsection (1)(c) do not apply to a person under 18 years of age who, at the time of application for a driver’s license, is an enrollee of a job corps program located in Montana. The department may require the applicant to provide current documentation of the applicant’s job corps program enrollment status.”

Section 21. Section 61-5-206, MCA, is amended to read:

“61-5-206. Authority of department to suspend or revoke license or driving privilege – right to hearing. (1) The department may suspend or *revoke* the driver’s license or driving privilege of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(a) has committed or permitted an unlawful or fraudulent use of the license as specified in 61-5-302;

(b) has falsified the licensee’s date of birth on the application for a driver’s license;

(c) is under 21 years of age and has altered the licensee’s or another’s driver’s license, identification card, or tribal identification card to obtain alcohol; or

(d) has authorized another to use the licensee’s driver’s license, identification card, or tribal identification card to obtain alcohol.

(2) If the department suspends *or revokes* a driver’s license under 61-5-207 or this section or reinstates a license suspension or revocation upon conviction or forfeiture of bail not vacated of any traffic violation by a person who holds a probationary driver’s license under 61-2-302, the department shall immediately notify the licensee in writing and upon the licensee’s request shall afford the licensee an opportunity for a hearing as early as practical, within 20 days after receipt of the request, in the county in which the licensee resides unless the department and the licensee agree that the hearing may be held in some other county. At the hearing, the department through its authorized agent may

administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. At the hearing, the department shall either rescind its order of suspension or *revocation* or, for good cause, may affirm, reduce, or extend the period of suspension or *revocation* of the license.”

Section 22. Section 61-6-158, MCA, is amended to read:

“61-6-158. Vehicle insurance verification and license plate operating account. (1) There is a vehicle insurance verification and license plate operating account in the state special revenue fund type as provided in 17-2-102.

(2) Fees imposed under 61-3-321(7)(b)(ii) and (13), 61-3-333, 61-3-465(1)(b)(i), 61-3-480(2)(c)(i), ~~or 61-3-562(1)(a)(ii), or 61-3-701(5)~~ or established and collected under 61-6-105 must be deposited in the account.

(3) The money in the vehicle insurance verification and license plate operating account must be used by the department to pay costs incurred in or associated with the operation, maintenance, and enhancement of the system established under 61-6-157 and the contract required in 61-3-338 for the manufacture and distribution of license plates by Montana correctional enterprises.”

Section 23. Section 61-8-347, MCA, is amended to read:

“61-8-347. Obedience to signal indicating approach of train or other on-track equipment. (1) When a person operating a vehicle approaches a railroad crossing under any of the circumstances stated in this section, the operator of the vehicle shall *slow the vehicle in order to* stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may not proceed until the operator can do so safely. These requirements apply when:

(a) a clearly visible electric or mechanical signal device gives warning of the presence or immediate approach of a railroad train or other on-track equipment;

(b) a crossing gate is lowered or when a flag person gives a signal of the approach or passage of a railroad train or other on-track equipment;

(c) a railroad train approaching ~~within approximately 1,500 feet of the crossing emits a signal audible from that distance~~ *an audible signal*, except at crossings within quiet zones established under 69-14-620, indicating that the train is an immediate hazard because of its speed or nearness to the crossing;
~~or~~

(d) an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing;

(e) *there is insufficient space to drive completely through the crossing without stopping; or*

(f) *there is insufficient undercarriage clearance to clear the railroad crossing.*

(2) A person may not operate a vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed.”

Section 24. Section 61-8-465, MCA, is amended to read:

“61-8-465. Aggravated DUI. (1) A person commits the offense of aggravated driving under the influence if the person is in violation of 61-8-401, 61-8-406, or 61-8-411 and:

(a) the person’s alcohol concentration, as shown by analysis of the person’s blood or breath, is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;

(c) the person's driver's license or privilege to drive is suspended, canceled, or revoked as a result of a prior violation of 61-8-401, 61-8-402, 61-8-406, or 61-8-411;

(d) the person refuses to provide a breath or blood sample as required in 61-8-402 and the person's driver's license or privilege to drive was suspended, canceled, or revoked under 61-8-402 within 10 years of the commission of the present offense; or

(e) the person has one prior conviction or pending charge for a violation of 45-5-106, 45-5-205, 61-8-401, 61-8-406, 61-8-411, or this section within 10 years of the commission of the present offense or has two or more prior convictions or pending charges, or any combination thereof, for violations of 45-5-106, 45-5-205, 61-8-401, 61-8-406, or 61-8-411.

(2) Except as provided in subsection (6), a person convicted of a first violation of the offense of aggravated driving under the influence shall be punished by:

(a) a fine of \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of \$2,000; and

(b) a term of imprisonment for not less than 48 hours or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 72 consecutive hours.

(3) (a) Except as provided in subsection (6), a person convicted of a second violation of the offense of aggravated driving under the influence shall be punished by:

(i) a fine of \$2,500, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of \$5,000; and

(ii) a term of imprisonment for not less than 15 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 45 days.

(b) Except for the minimum term of imprisonment provided in subsection (3)(a)(ii), the mandatory minimum imprisonment term may be suspended pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(c) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(4) (a) Except as provided in subsection (6), a person convicted of a third violation of the offense of aggravated driving under the influence shall be punished by:

(i) a fine of \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a fine of \$10,000; and

(ii) a term of imprisonment for not less than 40 consecutive days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, a term of imprisonment for not less than 90 consecutive days.

(b) Except for the minimum term of imprisonment provided in subsection (4)(a)(ii), the mandatory minimum imprisonment term may be suspended pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(c) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(5) During the suspended sentence imposed by the court under subsection (3)(b) or (4)(b):

(a) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts if available;

(b) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program if available and if imposed by the court; and

(c) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(6) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs, with an excessive alcohol concentration, or under the influence of delta-9-tetrahydrocannabinol or aggravated driving under the influence.

(7) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section."

Section 25. Section 61-8-812, MCA, is amended to read:

"61-8-812. Operation of out-of-service vehicle – criminal and civil penalties – suspension of commercial driver's license. (1) A person may not operate a commercial motor vehicle during any period in which the person, the commercial motor vehicle the person is operating, or the motor carrier operation is subject to an out-of-service order issued under state or federal authority.

(2) A violation of this section is a misdemeanor and a person convicted of a violation of this section shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense.

(3) (a) In addition to the misdemeanor penalties provided in subsection (2) and suspension of the person's commercial driver's license as provided in subsection (4), a person who violates an out-of-service order issued under state or federal authority is subject to a civil penalty ~~of not less than \$1,100 or more than \$2,750~~ *not to exceed \$2,985 for a first offense and a civil penalty of \$5,970 for a second or subsequent offense.*

(b) The department or the county attorney of the county in which the violation occurred may petition the district court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is the county in which the violation occurred or in the first judicial district.

(c) A civil penalty collected under this section must be deposited in the state general fund.

(4) Upon receipt of notice from a court of competent jurisdiction or another licensing jurisdiction that a person holding a commercial driver's license has been convicted of violating an out-of-service order, the department shall suspend the person's commercial driver's license for:

(a) 6 months for a first conviction;

(b) 2 years for a second conviction if the vehicle being operated by the person at the time of the violation was not transporting placardable hazardous materials or was not designed or being used to transport more than 15 passengers, inclusive of the driver; and

(c) 3 years:

(i) for a second conviction if the vehicle:

(A) being operated at the time of the violation was transporting placardable hazardous materials; or

(B) was designed or being used to transport more than 15 passengers, inclusive of the driver; and

(ii) for a third or subsequent conviction.

(5) For purposes of this section, an offender is considered to have been previously convicted if less than 10 years have elapsed between the commission of the present offense and a previous conviction.

(6) A temporary or probationary commercial driver's license may not be issued while a commercial driver's license is suspended under subsection (4)."

Section 26. Section 61-11-102, MCA, is amended to read:

"61-11-102. Records to be kept by department. (1) Except as provided in subsection (8), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person:

(a) who has been issued a Montana driver's license;

(b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and

(c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department.

(2) An individual Montana driving record maintained under this section must include:

(a) personal information obtained from the application for a driver's license or a report of conviction;

(b) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;

(c) all convictions reported to the department for the person; and

(d) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.

(3) (a) The department shall create and maintain a CDLIS driver record for each person who has been issued a Montana commercial driver's license or for whom a record of conviction, disqualification, or other licensure action has been taken for violations of any state or local law relating to motor vehicle traffic regulation, other than a parking violation, committed while operating a commercial motor vehicle.

(b) A CDLIS driver record maintained by the department must meet the requirements of 49 CFR 384.225.

(c) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration as an imminent hazard under 49 CFR 383.52, the department shall record the disqualification on the CDLIS driver record.

(4) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384.

(5) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed.

(6) The department may place on a computer storage device the information contained on original records or reproductions of original records made

pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

(7) (a) Except as provided in subsection (7)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when the reproduction of the information is signed by a named custodian of the record and the following certification appears on each page:

~~The individual named below, being a designated custodian of the driver records of the department of justice, motor vehicle division, certifies this document as a true reproduction, in accordance with 61-11-102(7), of the information contained in a computer storage device of the department of justice, motor vehicle division.~~

Signed:.....

(Print Full Name) *department certifies the record.*

(b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date.

(c) A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive and use a computer-generated individual Montana driving record as evidence without further foundation when:

(i) the individual Montana driving record is electronically transmitted from the department's central database of electronic individual Montana driving records to a department-authorized terminal device maintained by the court, the office of the clerk of court, or the attorney; and

(ii) the judge, an officer of the court, or the attorney certifies that the record was not altered in any way.

~~(8) The department may remove any individual Montana driving record from the active database of electronic files maintained under this section if there has been no change in license status on or additional reports of conviction to the record in the immediately preceding 16 years. Any individual driving record removed must be retained elsewhere by the department as an inactive record in an electronic storage device that is searchable and retrievable.~~

~~(8) (a) Except as provided in subsection (4), the department may destroy any individual Montana driving record maintained under this section if there are no suspensions or revocations on the record and there has been no renewed credential in the immediately preceding 16 years.~~

~~(b) The department shall adopt rules governing the destruction of records."~~

Section 27. Section 61-11-204, MCA, is amended to read:

"61-11-204. Department's duties. (1) If the records maintained by the department show that a person's driving record brings the person within the definition of a habitual traffic offender, the department shall:

(a) declare the person a habitual traffic offender;

(b) revoke the person's driver's license or driving privileges as provided in 61-11-211; and

(c) notify the person in writing of the declaration and revocation.

(2) The notice must be sent by first-class mail to the most current address on record with the department. The notice must include a **certified** record of the convictions and bond forfeitures upon which the habitual traffic offender designation was based. The notice must inform the person of the right under 61-11-210 to appeal the declaration and revocation. Service of the notice is complete upon mailing."

Section 28. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 29. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2017.

(2) [Sections 1, 2, 6, 14 through 20, 22, 24, and this section] are effective on passage and approval.

(3) [Sections 7 through 13] are effective January 1, 2018.

Approved May 4, 2017

CHAPTER NO. 324

[HB 145]

AN ACT REVISING LAWS PERTAINING TO ANNUITY REGULATION; ADOPTING THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS SUITABILITY IN ANNUITY TRANSACTIONS MODEL REGULATION; REVISING LAWS PERTAINING TO NOTICE OF CANCELLATION; REVISING LAWS PERTAINING TO EDUCATION REQUIREMENTS FOR INSURANCE PRODUCERS SELLING ANNUITIES; REQUIRING INSURERS TO ADOPT ANNUITY SUPERVISION PROCESSES; REVISING ANNUITY SUITABILITY REQUIREMENTS; REVISING RECORDKEEPING REQUIREMENTS FOR INSURANCE PRODUCERS SELLING ANNUITIES; AMENDING SECTIONS 33-20-141, 33-20-802, 33-20-804, AND 33-20-805, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Annuity education. (1) An insurance producer may not solicit the sale of an annuity product unless:

(a) the insurance producer has adequate knowledge of the product to recommend the annuity; and

(b) the insurance producer is in compliance with the insurer's standards for product training.

(2) The training required under this section must include, at a minimum, information on the following topics:

(a) the types of annuities and various classifications of annuities;

(b) identification of the parties to an annuity;

(c) how product-specific annuity contract features affect consumers;

(d) the application of income taxation of qualified and nonqualified annuities;

(e) the primary uses of annuities; and

(f) appropriate sales practices, replacement, and disclosure requirements.

(3) Training required under this section may not include any information on marketing, sales techniques, or the specific aspects of a particular insurer's products.

(4) An insurer shall verify that an insurance producer has completed the training under this section before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this section by obtaining certificates of completion of the training course or obtaining reports provided by a database system satisfactory to the commissioner.

Section 2. Section 33-20-141, MCA, is amended to read:

“33-20-141. Notice required for cancellation. (1) *No Subject to subsection (2), an insurer may not cancel a life insurance policy or annuity for nonpayment of premiums until the insurer has mailed or delivered to the named insured and policyowner, where they are not the same, at the last-known post office address shown in the records of the company one written notice of cancellation in addition to any billing statement, stating the date the cancellation will become effective, which may not be less than 30 days after the date of mailing or delivery of the notice. Said 30 days shall run concurrently with the grace period required by 33-20-104.*

(2) (a) *An insurer that delivers or issues for delivery an individual life insurance policy in this state shall notify an applicant in writing at the time of application for the policy of the applicant's right to designate a third party to receive notice of cancellation of the policy based on nonpayment of premium. The applicant may make the designation at the time of application for the policy or at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the third-party designee.*

(b) *The insurer's transmission to the third-party designee of a copy of a notice of cancellation based on nonpayment of premium must be in addition to the transmission of the original document to the policyowner. The copy of the notice of cancellation transmitted to the third party must be governed by the same law and policy provisions that govern the notice being transmitted to the policyowner.*

(c) *The designation of a third party may not constitute acceptance of any liability on the part of the third party or insurer for services provided to the policyowner.”*

Section 3. Section 33-20-802, MCA, is amended to read:

“33-20-802. Purpose – scope. (1) The purpose of this part is to *require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.*

(2) This part applies to any recommendation to purchase, ~~or~~ exchange, ~~or replace~~ an annuity made to a consumer by an insurance producer or by an insurer when an insurance producer is not involved that results in the recommended purchase, ~~or~~ exchange, ~~or replacement.”~~

Section 4. Section 33-20-804, MCA, is amended to read:

“33-20-804. Definitions. As used in this part, the following definitions apply:

(1) “Annuity” means a fixed annuity that is individually solicited, regardless of whether the product is classified as an individual or group annuity.

(2)(2) “Insurance producer”, in addition to the definition in 33-17-102, includes an insurance producer licensed to sell, solicit, or negotiate annuities.

(3)(3) “Insurer”, in addition to the definition in 33-1-201, includes an insurer providing annuity products.

(4)(4) “Recommendation” means advice provided by an insurance producer or by an insurer when an insurance producer is not involved to an individual consumer that results in a purchase, ~~or~~ exchange, ~~or replacement~~ of an annuity in accordance with that advice.

(5) “Replacement” means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer or to the proposing insurer when an insurance producer is not involved that by reason of the transaction, an existing policy or contract has been or is to be:

(a) *lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;*

(b) *converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;*

(c) *amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;*

(d) *reissued with any reduction in cash value; or*

(e) *used in a financed purchase.*

(6) *“Suitability information” means information that is reasonably appropriate to determine the suitability of a recommendation, including the following:*

(a) *age;*

(b) *annual income;*

(c) *financial situation and needs, including the financial resources used for the funding of the annuity;*

(d) *financial experience;*

(e) *financial objectives;*

(f) *intended use of the annuity;*

(g) *financial time horizon;*

(h) *existing assets, including investment and life insurance holdings;*

(i) *liquidity needs;*

(j) *liquid net worth;*

(k) *risk tolerance;*

(l) *tax status; and*

(m) *whether the consumer has a reverse mortgage.”*

Section 5. Section 33-20-805, MCA, is amended to read:

“33-20-805. Duties of insurers, insurance producers, and independent agencies. (1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer or the insurer when an insurance producer is not involved must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer’s investments, other insurance products, financial situation, and needs, including the consumer’s suitability information, and that there is a reasonable basis to believe all of the following:

(a) *the consumer has been reasonably informed of various features of the annuity, including the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk;*

(b) *the consumer would receive a benefit from the transaction;*

(c) *the particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase, exchange, or replacement of the annuity, and riders and similar product enhancements, if any, are suitable for the particular consumer based on the consumer’s suitability information; and*

(d) *in the case of an exchange or replacement of an annuity, the exchange or replacement is suitable, including taking into consideration whether:*

(i) *the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, or be subject*

to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(ii) the consumer would benefit from product enhancements and improvements;

(iii) the consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months; and

(iv) the transaction as a whole is suitable for the consumer based on the consumer's suitability information.

(2) Prior to the execution of a purchase, or exchange, or replacement of an annuity resulting from a recommendation, an insurance producer or an insurer when an insurance producer is not involved shall make reasonable efforts to obtain the consumer's suitability information, concerning:

(a) the consumer's financial status;

(b) the consumer's tax status;

(c) the consumer's investment objectives; and

(d) other information used or considered reasonable in making recommendations to the consumer by the insurance producer or by the insurer when an insurance producer is not involved.

(3) Except as permitted under subsection (4), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

(3)(4) (a) Except as provided under subsection (3)(b) (4)(b), an insurance producer or an insurer when an insurance producer is not involved does not have any obligation to a consumer under subsection (1) or (3) related to any recommendation if a consumer: annuity transaction if:

(i) no recommendation is made;

(ii) a recommendation is made but later found to have been prepared based on materially inaccurate information provided by the consumer;

(i)(iii) the consumer refuses to provide relevant suitability information requested by the insurer or insurance producer; and the annuity transaction is not recommended; or

(ii)(iv) the consumer decides to enter into an insurance annuity transaction that is not based on a recommendation of the insurer or insurance producer; or (iii) fails to provide complete or accurate information.

(b) Subject to subsection (1), an An insurer's or insurance producer's recommendation issuance of an annuity under subsection (4)(a) must be reasonable under all the circumstances actually known or which after reasonable inquiry should be known to the insurer or insurance producer at the time of the recommendation the annuity is issued.

(5) An insurance producer or an insurer when an insurance producer is not involved shall at the time of sale:

(a) make a record of any recommendation subject to subsection (1);

(b) obtain a statement signed by the consumer acknowledging the consumer's refusal to provide suitability information, if any; and

(c) if a consumer decides to enter into an annuity transaction that is not based on the insurance producer's or insurer's recommendation, obtain a statement signed by the consumer acknowledging that the annuity transaction is not recommended.

(4) (a)(6) An insurer may contract with a third party as provided in subsection (6) to shall establish and maintain a supervision system to supervise recommendations that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this section: and, at a minimum, shall:

(a) maintain reasonable procedures to inform its insurance producers of the requirements of this section and shall incorporate the requirements of this section into relevant insurance producer training manuals;

(b) establish standards for insurance producer product training and maintain reasonable procedures to require its insurance producers to comply with the requirements of [section 1];

(c) provide product-specific training and training materials that explain all material features of its annuity products to its insurance producers;

(d) maintain procedures that are designed to ensure that there is a reasonable basis for determining that a recommendation is suitable for the consumer prior to issuance of an annuity. The review procedures must establish selection criteria for the purpose of identifying selected transactions for additional review.

(e) maintain reasonable procedures, such as confirmation of consumer suitability information, systematic consumer surveys, interviews, confirmation letters, and programs of internal monitoring, to detect recommendations that are not suitable; and

(f) annually provide a report to senior management, including to the senior manager responsible for audit functions, that details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(b) A system designed and maintained by an insurer must at a minimum provide for:

(i) maintaining written procedures; and

(ii) conducting periodic reviews of the insurer's records that are reasonably designed to assist in detecting and preventing violations of this part.

(5) An insurance producer or independent agency shall:

(a) adopt a system established by an insurer to supervise recommendations of the insurance producer or agency's insurance producers that is reasonably designed to achieve compliance with this part; or

(b) establish and maintain a system that at a minimum provides for:

(i) maintaining written procedures; and

(ii) conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this part.

(6)(7) (a) An insurer may contract with a third party, including an insurance producer or independent agency, to establish and maintain a system of supervision as provided for in subsection (4) (6) with respect to insurance producers under contract with or employed by the third party.

(b) An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties under 33-1-317 and 33-1-318 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subsection (7)(c).

(b)(c) An insurer insurer's supervision system under subsection (6) must include supervision of the performance of shall make reasonable inquiry to ensure that the third party parties under is performing the functions required under this subsection (7) and must include, at a minimum, the following: (4) and shall take reasonable action under the circumstances to enforce the third party's contractual obligations to perform the functions.

(c) An insurer may comply with its obligation to make reasonable inquiry by doing each of the following:

(i) annually obtaining a certification from a director, officer, or principal of the third party that the third party is performing the required functions; and

(ii) based on reasonable selection criteria, periodically selecting third parties for a review to determine whether monitoring and, as appropriate,

conducting audits to ensure that the third parties are performing the required functions.

~~(7)(8)~~ An insurer, ~~insurance producer, or independent agency~~ is not required by this section to:

(a) review or provide for review of insurance producer solicited transactions not related to annuities; or

(b) include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer., ~~insurance producer, or independent agency.~~

~~(8) An insurance producer or independent agency contracting as a third party with an insurer pursuant to subsection (6) shall promptly, when requested by the insurer, give a certification as described in subsection (6) or give a clear statement that it is unable to meet the certification criteria.~~

(9) An insurance producer or an insurer when an insurance producer is not involved may not dissuade or attempt to dissuade a consumer from:

(a) truthfully responding to an insurer's request for confirmation of suitability information;

(b) filing a complaint; or

(c) cooperating with the investigation of a complaint.

~~(9)(10)~~ (a) Insurers, insurance producers, and independent agencies shall maintain or must be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but is not required, to maintain documentation on behalf of an insurance producer.

(b) Records required to be maintained by this ~~regulation~~ *section* may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document."

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 20, part 8, and the provisions of Title 33, chapter 20, part 8, apply to [section 1].

Section 7. Effective date. [This act] is effective January 1, 2018.

Approved May 4, 2017

CHAPTER NO. 325

[HB 294]

AN ACT ENCOURAGING MUNICIPALITIES AND SCHOOL DISTRICTS TO DEVELOP ACCESSIBLE PLAYGROUNDS; APPROPRIATING FUNDS TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO DISTRIBUTE GRANTS TO HELP MUNICIPALITIES AND SCHOOL DISTRICTS SECURE ADDITIONAL FUNDING TO DEVELOP ACCESSIBLE PLAYGROUNDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there are 8,674 children with disabilities between the ages of 1 and 17 living in communities across Montana; and

WHEREAS, many playgrounds across Montana are not accessible to or usable by children with disabilities; and

WHEREAS, many communities throughout Montana lack the funding needed to develop accessible playgrounds; and

WHEREAS, other federal and private funding sources often require matching funds; and

WHEREAS, a modest state investment will allow communities to leverage limited resources to allow children and adults of all abilities the opportunity to play together.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) There is appropriated \$100,000 for the biennium beginning July 1, 2017, from the state special revenue account provided for in 61-3-321(19)(a) for state parks to the department of fish, wildlife, and parks, parks division, to distribute grants to municipalities and school districts to supplement local and private funds in order to secure other grant funding for developing accessible playgrounds that requires a match.

(2) Any state funds distributed must be matched at a rate of 1 to 1, with \$1 in state funds to \$1 in local funds. A grant may not exceed \$10,000. The department shall ensure that funds are distributed only as necessary to secure other grant funding.

(3) The money must be used to leverage other grant funding that will increase accessibility in existing playgrounds or for the costs of accessibility features in new playgrounds. The money may not be used during initial construction for accessibility features required by the Americans With Disabilities Act for newly constructed playgrounds or to upgrade existing restroom or parking facilities that are not compliant with applicable accessibility standards.

Section 2. Effective date. [This act] is effective July 1, 2017.

Approved May 4, 2017

CHAPTER NO. 326

[HB 365]

AN ACT GENERALLY REVISING LAWS REGARDING EXCAVATIONS NEAR UNDERGROUND FACILITIES; CREATING AN UNDERGROUND FACILITY PROTECTION ADVISORY COUNCIL; ALLOCATING THE COUNCIL TO THE DEPARTMENT OF LABOR AND INDUSTRY; ESTABLISHING THE COUNCIL'S DUTIES AND RESPONSIBILITIES; ESTABLISHING THE DEPARTMENT'S DUTIES AND RESPONSIBILITIES; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; REQUIRING THE DEPARTMENT TO AWARD GRANTS TO NOTIFICATION CENTERS; ESTABLISHING A GRANT PROGRAM; ALLOWING FOR THE COLLECTION OF FEES, FINES, AND CIVIL PENALTIES BY THE DEPARTMENT; PROVIDING DIRECTION ON THE COLLECTION OF FEES, FINES, AND CIVIL PENALTIES; ESTABLISHING CIVIL PENALTIES; ESTABLISHING DAMAGE LIABILITY REQUIREMENTS; PROVIDING FOR MEDIATION OF CIVIL PENALTIES; ALLOWING THE DEPARTMENT TO REVIEW CIVIL PENALTIES IN A CONTESTED CASE; ESTABLISHING AN ANNUAL FEE PAID BY UNDERGROUND FACILITY OWNERS; REQUIRING THE REPORTING OF INCIDENTS; ESTABLISHING SAFE EXCAVATION REQUIREMENTS PERTAINING TO UNDERGROUND FACILITIES; ESTABLISHING AN UNDERGROUND FACILITY PROTECTION ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 69-4-501, 69-4-502, 69-4-503, 69-4-504, 69-4-508, AND 69-4-512,

MCA; REPEALING SECTIONS 69-4-505, 69-4-513, AND 69-4-514, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Underground facility protection advisory council. (1)

There is an underground facility protection advisory council consisting of 11 members.

(2) Members must be appointed by the governor as follows:

(a) one member representing owners or operators of an underground facility that is a jurisdictional pipeline in Montana that is not a public utility as defined in 69-3-101;

(b) one member representing a public utility, as defined in 69-3-101, that owns an underground facility that is a jurisdictional pipeline in Montana;

(c) one member representing a public utility, as defined in 69-3-101, that owns an underground facility that is an electric distribution or transmission line in Montana; (d) one member representing a rural electric cooperative operating in Montana;

(e) one member representing a telecommunications provider with more than 50,000 subscriber lines in Montana;

(f) one member representing a telecommunications provider with less than 50,000 subscriber lines in Montana;

(g) one member representing a municipal sewer or water system or a municipal water supply system established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44;

(h) one member representing a local government utility that is a county or consolidated city and county water or sewer district as defined in Title 7, chapter 13, parts 22 and 23;

(i) one member representing an authority as defined in 75-6-304; and

(j) two members representing excavators.

(3) The council's membership may not include more than one representative from the same partnership, firm, joint venture, corporation, association, municipality, governmental unit, department, or agency, including corporate subsidiaries or affiliates.

(4) The council is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(5) The appointed members serve staggered terms of 3 years. The initial appointments are as follows: two members for 1-year terms, four members for 2-year terms, and five members for 3-year terms.

(6) Members of the council are not entitled to compensation for their services.

Section 2. Duties of council. (1) The council shall meet at least annually to advise the department in its administration of this part.

(2) To promote efficiency, cost-effectiveness, and safety, the council shall work cooperatively with:

(a) the department;

(b) underground facility owners and their representatives;

(c) excavators;

(d) property owners; and

(e) interested members of the public.

(3) The council shall:

(a) advise the department in its duty to collect civil penalties in accordance with [sections 5 and 6];

(b) provide recommendations to the department in determining grants awarded in accordance with [section 9];

(c) assist the department in the mediation and resolution of disputed civil penalties in accordance with [section 7]; and

(d) advise the department on other significant matters concerning the administration and enforcement of this part, including rulemaking.

Section 3. Duties of department – rulemaking. (1) The department shall:

(a) assess civil penalties pursuant to [sections 5 and 6];

(b) maintain incident reports;

(c) collect fees from underground facility owners in accordance with rules adopted pursuant to 69-4-502(4)(a) and subsection (2)(c) of this section;

(d) collect fines for failures to file incident reports in accordance with [section 10];

(e) award grants in accordance with [section 9]; and

(f) conduct mediation and contested cases regarding disputed civil penalties in accordance with [section 7].

(2) The department shall adopt rules to implement this part. Rules must provide for the:

(a) assessment and collection of civil penalties provided for in [sections 5 and 6];

(b) reporting and collection of incident reports pursuant to [section 10];

(c) collection of annual fees of up to \$0.10 per outgoing locate request issued to each individual underground facility owner by a notification center. The fee must be based on the number of outgoing locate requests that an underground facility owner received in the previous 12-month period.

(d) procedures, including but not limited to application and filing requirements for mediation and the review of disputed penalties; and

(e) procedures for grant funding authorized in [section 9]. The rules for grant funding must include but are not limited to:

(i) eligibility requirements for notification centers applying for grants;

(ii) criteria for awarding grants; and

(iii) reporting procedures for grant recipients.

(3) Rules must be adopted pursuant to the Montana Administrative Procedure Act.

(4) The department may take into account and rely on findings made by a notification center or other nonprofit entities to assist in making determinations necessary for the assessment of a civil penalty.

Section 4. Tort liability for underground facility damage. (1)

(a) Except as provided in subsection (1)(b), an excavator who damages an underground facility is liable for the entire cost of the repair of the underground facility.

(b) If an underground facility is damaged because an underground facility owner failed to complete a locate in accordance with 69-4-503 or provided an inaccurate locate or marks, the underground facility owner who failed to complete the locate or provided an inaccurate locate or marks is responsible for the entire cost of the repair of the underground facility.

(c) Liability in accordance with this subsection (1) is not a bar to other appropriate civil remedies for damages.

(2) Paying a civil penalty in accordance with this part is not:

(a) an admission of liability; or

(b) a bar to other appropriate civil remedies.

(3) If a person damages an underground facility and there is a release of gas or a hazardous liquid, the person shall call 9-1-1 immediately and request emergency services.

(4) If an excavator damages an underground facility, the excavator shall:

(a) immediately make a 9-1-1 call and request emergency services, if the underground facility is a jurisdictional pipeline and there is a release of gas or a hazardous liquid; and

(b) as soon as practicable, contact the owner of the underground facility. If the excavator is unable to reach the underground facility owner, the excavator shall contact the proper notification center.

(5) This section may not be construed to require the involvement of the department in civil remedies for damages.

Section 5. Underground facilities damage – excavator civil penalties. (1) Except as provided in [section 10(3)], within 14 days of receiving an incident report in accordance with [section 10], the department shall issue a civil penalty in accordance with this section.

(2) Except as provided in subsection (4), if an excavator damages an underground facility that is not a jurisdictional pipeline, the civil penalty is the greater of \$50 or twice the amount of the last civil penalty issued to the excavator, not to exceed \$10,000.

(3) Except as provided in subsection (4), if an excavator damages an underground facility that is a jurisdictional pipeline, the civil penalty is the greater of \$100 or three times the last civil penalty issued to the excavator, not to exceed \$25,000.

(4) If the excavator is also the property owner, the penalties are half the amount established in subsections (2) and (3).

(5) (a) For the purposes of this section and subject to subsections (5)(b) and (5)(c), the last civil penalty is the dollar amount of the civil penalty that would have been issued to the excavator under this part based on incidents occurring in the lesser of:

(i) the last 100 requests for a locate made by the excavator; or

(ii) a rolling 12-month period based on the incident date.

(b) If an incident is subject to subsection (2), the civil penalty must be calculated as if all previous incidents were subject to subsection (2).

(c) If an incident is subject to subsection (3), the civil penalty must be calculated as if all previous incidents were subject to subsection (3).

Section 6. Underground facilities damage – underground facility owner civil penalties. (1) Except as provided in [section 10(3)], within 14 days of receiving an incident report in accordance with subsection (2), the department shall issue a civil penalty in accordance with this section.

(2) If an incident is reported because a locate and mark was not properly completed or if the locate and marks provided were not reasonably accurate for locatable underground facilities, the underground facility owner shall be assessed a civil penalty in accordance with subsections (3) and (4).

(3) Except as provided in subsection (5), if the incident involves an underground facility that is not a jurisdictional pipeline, the civil penalty is the greater of \$50 or twice the last civil penalty issued to the underground facility owner, not to exceed \$10,000.

(4) Except as provided in subsection (5), if the incident involves an underground facility that is a jurisdictional pipeline, the civil penalty is the greater of \$100 or three times the last civil penalty issued to the underground facility owner, not to exceed \$25,000.

(5) If an underground facility owner is not a member of a notification center pursuant to 69-4-502(3), the penalties included in subsections (3) and (4) double.

(6) (a) For the purposes of this section and subject to subsections (6)(b) and (6)(c), the last civil penalty is the dollar amount of the civil penalty that would

have been issued to the underground facility owner under this part based on incidents occurring in the lesser of:

(i) the last 100 outgoing locate requests made to the underground facility owner; or

(ii) a rolling 12-month period based on the incident date.

(b) If an incident is subject to subsection (3), the civil penalty must be calculated as if all previous incidents were subject to subsection (3).

(c) If an incident is subject to subsection (4), the civil penalty must be calculated as if all previous incidents were subject to subsection (4).

Section 7. Civil penalty – mediation – contested case hearing – procedures. (1) An excavator or underground facility owner who receives a civil penalty in accordance with [section 5 or 6] may request a review of the penalty in accordance with this section.

(2) (a) If an excavator or underground facility owner disputes a civil penalty, prior to a contested case the department, in consultation with the advisory council, shall conduct mediation of the disputed penalty in accordance with rules established by the department.

(b) The request must be filed within 20 days after the department issues a civil penalty.

(3) (a) If mediation in accordance with subsection (2) does not resolve the dispute, the request must proceed through the contested case process before the department pursuant to the Montana Administrative Procedure Act.

(b) The request must be filed within 20 days after the mediation report is mailed by the department.

(c) The department shall issue a final decision within 90 days from the close of the contested case.

(4) The department shall issue determinations in writing and provide a copy to all parties named in the dispute.

Section 8. Underground facility protection account – statutory appropriation. (1) There is an underground facility protection account in the state special revenue fund. The account is statutorily appropriated, as provided in 17-7-502, to the department.

(2) There must be deposited in the account all revenue from:

(a) civil penalties collected pursuant to [sections 5 and 6];

(b) fines collected pursuant to [section 10 or 11];

(c) fees collected pursuant to 69-4-502(4); and

(d) any gifts, grants, donations, or bequests to the department.

(3) Funds are allocated as follows:

(a) fees collected pursuant to 69-4-502(4) and paid by underground facility owners and any gifts, grants, donations, or bequests must be deposited in an account for the administration of this part by the department in accordance with this part; and

(b) all revenue from civil penalties collected pursuant to [sections 5 and 6] and fines collected pursuant to [sections 10 or 11] must be deposited in an account for distribution in the form of grants to notification centers to be used in accordance with [section 9].

(4) The accounts established in subsection (3) retain interest earned from the investment of money in the accounts.

Section 9. Notification center grants. (1) The department, in consultation with the council, shall award grants annually to notification centers using the account established pursuant to [section 8(3)(b)]. Beginning January 1, 2018, grants must be awarded to notification centers in accordance with this section and rules adopted by the department in accordance with [section 3].

(2) Grants must be awarded to notification centers to fund training and educational programs and materials for excavators, underground facility owners, and the general public.

(3) Nothing in this section prevents a notification center from:

(a) transferring grant money received to another entity for nonprofit underground facility education programs; or

(b) collaborating with another notification center on a joint grant application.

Section 10. Incident reports -- notification of damage -- fines. (1)

(a) Within 30 days of an incident, an underground facility owner who owns an underground facility that is damaged shall:

(i) report the incident to the appropriate notification center; and

(ii) notify the excavator involved in the incident that the incident has been reported in accordance with subsection (1)(a)(i).

(b) A notification center that receives a report in accordance with subsection (1)(a) shall notify the department.

(2) When the information is available, the incident report must include:

(a) the name, address, and telephone number of the excavator responsible for the incident or the underground facility owner responsible for the damage;

(b) a description of the damage to the underground facility;

(c) a description of the incident, including whether it resulted in real or personal property damage, personal injury, or death;

(d) the name, address, and telephone number of any third party involved in the incident; and

(e) a description of any damage incurred by the excavator, including personal injury or death.

(3) After an incident is reported in accordance with subsection (1) and if the underground facility that is damaged is not a jurisdictional pipeline, if an underground facility owner determines that a civil penalty is not required, the underground facility owner shall provide notice of the determination to the department within 30 days of the date that the incident report was filed.

(4) (a) Except as provided in subsection (4)(b), the incident report must be available for public inquiry.

(b) The department may not make public any personal information protected by an individual privacy interest.

(5) If an underground facility owner fails to file an incident report in accordance with this section, the department shall assess a \$100 fine.

(6) If an underground facility owner determines that damage to an underground facility that is not a jurisdictional pipeline is an event and not an incident, reporting and notification in accordance with subsection (1) is not required.

(7) An underground facility owner who receives a fine may contest the fine by requesting, within 20 days of the fine being levied, a hearing from the department.

(8) Beginning July 1, 2017, the department shall maintain a database of incident reports. Incident reports must be maintained for a minimum of 5 years.

Section 11. Collection of penalties, fines, and fees. (1) If the department is unable to collect civil penalties, fees, or fines assessed pursuant to this part, the department may transfer the debt to the department of revenue pursuant to Title 17, chapter 4, part 1.

(2) (a) The assistance costs charged the department by the department of revenue pursuant to 17-4-103(3) may be added to the debt for which collection is being sought.

(b) All money collected by the department of revenue is subject to the provisions of 17-4-106.

Section 12. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; [section 8]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,

the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)”

Section 13. Section 69-4-501, MCA, is amended to read:

“69-4-501. Definitions. The following definitions apply to this part:

(1) *“Agricultural locate request” means a request for a locate and mark that is requested based on the perimeter boundary of an agricultural field:*

(a) *by a property owner or excavator prior to agricultural activity; or*

(b) *by a property owner or excavator prior to conducting soil probing or testing.*

(2) (a) *“Business day” means any day beginning at midnight and ending 24 hours later, other than Saturday, Sunday, New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.*

(b) *When a holiday listed in subsection (2)(a) occurs on a Saturday, the preceding Friday is not considered a business day. When a holiday listed in subsection (2)(a) occurs on a Sunday, the following Monday is not considered a business day.*

(3) *“Civil penalty” means a penalty levied by the department in accordance with [sections 5 and 6].*

(4) *“Council” means the underground facility protection advisory council provided for in [section 1].*

(5) *“Damage” or “damages” means any impact upon or removal of support from an underground facility as a result of excavation or demolition that, according to the operating practices of the underground facility owner, would necessitate the repair of the facility.*

(6) *“Department” means the department of labor and industry provided for in 2-15-1701.*

(7) *“Designated service area” means a geographic area defined using state and county boundaries or further defined by the members of a notification center in operation on [the effective date of this act]. There may not be more than two designated service areas in Montana.*

(8) *“Emergency excavation” means an excavation in response to an emergency locate request that is necessary to:*

(a) *alleviate a condition that constitutes a clear and present danger to life or property; or*

(b) *repair a customer outage involving a previously installed utility-owned facility.*

(9) *“Emergency locate request” means a request for a locate and mark that is requested for:*

(a) *a condition that constitutes a clear and present danger to life or property; or*

(b) *a customer outage for which repairs on a previously installed utility-owned facility are required.*

(10) *“Engineering locate request” means a request for a locate and mark to identify underground facilities for planning and design purposes.*

(11) *“Event” means damages to an underground facility, if:*

(a) *the underground facility is not a jurisdictional pipeline; and*

(b) *the underground facility owner determines the damages are not an incident.*

(4)(12) (a) "Excavation" means an operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving.

(b) Excavation does not include:

(i) surface road grading maintenance or road or ditch maintenance that does not change the original road or ditch grade or flow line;

(ii) *plowing, cultivating, planting, harvesting, or similar agricultural activities in areas cultivated:*

(A) *within the last 10 years, unless the activities disturb the soil to a depth of 18 inches or more; or*

(B) *within the last 14 months, to a depth greater than 18 inches, unless the activities disturb the soil to a depth of more than 24 inches;*

(iii) *gardening by homeowners or occupants in a previously established garden area unless the gardening disturbs the soil to a depth of 12 inches or more; or*

(iv) *landscaping by homeowners or occupants unless using mechanized equipment or disturbing soil to a depth of 12 inches or more.*

(5)(13) "Excavator" means a person conducting the excavation activities defined in subsection (4) (12).

(6)(14) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.

(7)(15) "Incident" means:

(a) *notwithstanding [section 10(6)], unless the underground facility is owned by the excavator, a violation of the provisions of 69-4-502 or 69-4-503(4) by an excavator that, at a single location on a single day, results in damage to an underground facility or the property of a third party or in bodily injury or death to any person other than the excavator; or*

(b) *a violation of the provisions of 69-4-503(3) by an underground facility owner that, at a single location on a single day, results in damage to an underground facility.*

(8) "Incident history" means the total number of incidents experienced by an excavator in the 5 years preceding the most recent incident. The incident history must be used to determine damage fees for violation of 69-4-503(1).

(16) "Jurisdictional pipeline" means a pipeline subject to regulation by the U.S. department of transportation pipeline and hazardous materials safety administration in accordance with 49 CFR 190-199, the Montana public service commission, or both.

(9)(17) "Locatable underground facility" means an underground facility that can be field-located and field-marked with reasonable accuracy.

(10)(18) "Locate" means ~~to~~ the use of specialized equipment to identify the location of underground facilities or the actual location of underground facilities identified by the use of specialized equipment.

(11)(19) "Mark" means the use of stakes, paint, or other clearly identifiable material to show the field location or absence of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility and the width of the facility if it is greater than 6 inches.

~~(12)(20)~~ “One-call notification” means a service through which a person may request a locating and marking of underground facilities an entity whose membership is open to and is contracting with underground facility owners with underground facilities within a notification center’s designated service area.

(21) “Notify”, “notice”, or “notification” means the completed delivery of information to a person. The delivery of information includes but is not limited to the use of electronic data transfer.

(22) “Outgoing locate request” means an electronic or other document transmitted from a notification center to all member underground facility owners affected by a request for a locate.

(13)(23) “Person” means an individual, partnership, firm, joint venture, corporation, association, municipality, governmental unit, department, or agency and includes a trustee, receiver, assignee, or personal representative of the listed entities.

(24) “Positive response” means notification through an electronic system provided by a notification center that is available to underground facility owners and excavators and is used for communicating and documenting the status of a request for a locate.

(25) “Property owner” means a person owning real property in Montana, its agents, and employees. The term does not include the owner of an easement.

(14)(26) “Reasonably accurate” means location within 18 inches of the outside lateral dimensions of both sides of an underground facility.

(27) “Request for a locate” means the process by which an excavator communicates with a notification center a request for underground facilities to be located and marked in an area where an excavation is planned. A request for a locate that is not an agricultural locate request and is not within city limits or within an area of an authority as defined in 75-6-304 may not exceed 2 miles long by 1,000 feet wide. A request for a locate that is not an agricultural locate request and is within city limits or within an area of an authority as defined in 75-6-304 may not exceed 2,000 feet long by 300 feet wide.

(28) “Third party” means a person who is not an excavator or an underground facility owner.

(15)(29) (a) “Underground facility” means a facility buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, fiber optics, electrical energy, oil, gas, or other substances. The term includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the listed items.

(b) The term does not include:

(i) shallow underground water systems designed to irrigate lawns, gardens, or other landscaping;

(ii) privately owned water and sewer lines from private property extending into public rights-of-way to interconnect with public water and sewer; or

(iii) an underground facility used solely to furnish services or commodities to real property, if no part of the underground facility is located in a public street, alley, or right-of-way dedicated to the public use.

(30) “Underground facility owner” means a person owning, controlling, or having the responsibility to maintain an underground facility.”

Section 14. Section 69-4-502, MCA, is amended to read:

“69-4-502. Information to be sought before excavation -- notification – exceptions. (1) (a) Except as provided in subsection ~~(1)(b)~~ (2), an excavator may not make or begin an excavation without first obtaining information concerning the possible location of an underground facility from each public

~~utility, municipal corporation, underground facility owner, or other person~~ having the right to bury underground facilities that is a member of a ~~one-call~~ notification center pursuant to subsection ~~(2)(a)~~ (3).

(b) Information concerning the possible location of underground facilities in accordance with subsection (1)(a) is obtained when:

(i) underground facilities are located and marked in accordance with 69-4-503; or

(ii) underground facility owners notified by a notification center respond through the notification center that their underground facilities are located and marked, or that locating or marking is not necessary, and the excavator receives a positive response that locates and marks are either complete or unneeded.

~~(b)–(i)(2)~~ (a) A registered land surveyor or a person under the supervision of a registered land surveyor may hand dig for shallow survey monuments at a depth of 12 inches or less below the road surface of a highway or at the intersection of the center lines of public streets.

~~(ii)(b)~~ The registered land surveyor, prior to hand digging, shall obtain proper approval from the appropriate governing authority regarding safety and pavement repair and, when appropriate, shall reference the monument upon exposure.

~~(iii)(c)~~ The governing authority is not liable for any damages caused or suffered by the registered land surveyor or any person under the supervision of the registered land surveyor.

~~(iv)(d)~~ The registered land surveyor is liable for damages incurred regarding facility destruction.

~~(v)(e)~~ A public utility, ~~municipal corporation,~~ An underground facility owner, ~~or other person having the right to bury underground facilities~~ is not liable for any damages suffered by the registered land surveyor or any person under the control of the registered land surveyor.

~~(2)(3)~~ (a) A public utility, ~~municipal corporation,~~ An underground facility owner, ~~or person having the right to bury underground facilities~~ must be a member of a one-call notification center covering the service area in which the entity or person has underground facilities.

~~(b) Subsection (2)(a) does not apply to an owner or occupant of real property where underground facilities are buried if the facilities are used solely to furnish services or commodities to that property and no part of the facilities is located in a public street, alley, or right-of-way dedicated to the public use.~~

~~(4) (a) Beginning October 1, 2017, an underground facility owner shall pay an annual fee pursuant to [section 3(2)(c)] to the department.~~

~~(b) Beginning July 1, 2017, to facilitate the collection of annual fees and to assist with the proper assessment of civil penalties, a notification center that serves underground facilities located in Montana shall annually, on a date determined by the department, provide the department with:~~

~~(i) a list of all its underground facility owners who are members;~~

~~(ii) a list of the outgoing locate requests for each underground facility owner and the requests for a locate and mark from each excavator over the past 12-month period; and~~

~~(iii) a list of all incident reports received over the past 12-month period.”~~

Section 15. Section 69-4-503, MCA, is amended to read:

“69-4-503. Notification – locating and marking. (1) Before beginning an excavation, the excavator shall notify, through a ~~one-call~~ notification center, all owners of underground facilities in the area of the proposed excavation. *Except as provided in subsection (9), notifications are limited to excavation work intended to commence within 10 days and completed within 30 days of the notification.*

(2) *An excavator shall provide adequate information to the owners of underground facilities in order to locate and mark the location of underground facilities.*

(a) *Adequate information must allow the person completing the locate to determine the area where the proposed excavation will occur. The information may include but is not limited to marking the path of the proposed excavation with white paint, marking the path of the proposed excavation with white flagging, or other clear marking that allows a person to determine the path of the proposed excavation.*

(b) *If the person completing the locate is unable to determine the path of the proposed excavation based on markings or other communications with the excavator, the excavator shall meet with the person completing the locate at the site where the excavation is proposed.*

(2)(3) *After an excavator has notified the appropriate one-call notification center of a proposed excavation, an owner of an underground facility shall:*

(a) *except as provided in subsection (3)(b) and in accordance with subsection (5), provide the locates locate and mark the location within 2 business days; or*

(b) *locate and mark the location within 5 business days or within 5 business days of a date agreed to after a meeting between the person conducting the locate and the excavator at the site where the excavation is proposed, if the locate is required for an engineering locate request; or*

(b)(c) *respond immediately as soon as practicable if the excavator notifies the one-call notification center that an emergency exists.*

(3)(4) (a) *After an owner of an underground facility owner has located and marked locates and marks the location of underground facilities, the excavator shall determine if weather, time, or other factors may have affected location marks, warranting relocation of the facilities.*

(b) *If Except as provided in subsection (9), if excavation has not occurred within 30 days of the locate and mark location and marking being completed, the excavator shall request that the underground facility be relocated located and remarked marked again before excavating unless other arrangements have been made with the underground facility owner. The excavator is responsible for costs associated with relocating and remarking a facility that is not excavated within 30 days of the locate and mark.*

(c) (i) *If an excavation has not occurred at a site within 30 days of the locate and mark being completed on two occasions and an excavator makes a third request for locate, the excavator is responsible for costs associated with the subsequent location and marking of the underground facility.*

(ii) *If an excavator disputes the costs required in subsection (4)(c)(i), the excavator has the burden of proof or must demonstrate circumstances beyond the excavator's control delayed the excavation.*

(4)(5) *Upon receipt of the notice provided for in this section, the owner of the underground facility owner shall provide the excavator with reasonably accurate information as to the owner's locatable underground facilities by surface locating and marking the location of the facilities. If there are identified but unlocatable underground facilities, the underground facility owner of the facilities shall provide the excavator with the best available information as to their locations. An excavator may not excavate until all known facilities have been located and marked. If an underground facility owner has knowledge of prior existing oil and gas development, an underground facility owner shall advise the excavator of the activity, and an excavator shall proceed in accordance with subsection (8). An excavator who proceeds in accordance with subsection (8) is not responsible for damages to an underground facility that cannot be located by its the underground facility owner. Once the facilities are located*

and marked by the facility owner. After a locate is complete, the excavator is responsible for maintaining preserving the markings.

(5) Upon receipt of notice from the excavator, the facility owner shall respond within 2 business days by locating and marking the facility or by notifying the excavator that locating and marking is unnecessary. An excavator may not begin excavating before the locating and marking is complete or before the excavator is notified that locating and marking is unnecessary.

(6) An excavator shall locate and mark the area to be excavated if requested by the facility owner or the owner's representative. If an excavator discovers an underground facility that has not been located and marked, the excavator shall stop excavating in the vicinity of the facility and notify the underground facility owner or the one-call notification center.

(7) An underground facility owner may attempt to identify the location of a private underground facility connected to the owner's facility, but the underground facility owner is not liable for the accuracy of the locate.

(8) The act of obtaining information as required by this part does not excuse an excavator making any excavation from doing so in a careful and prudent manner or excuse the excavator from liability for any damage or injury resulting from the excavator's negligence.

(9) If an excavator makes an agricultural locate request for soil probing or testing, new underground facilities have not been buried or placed in the area encompassed by the locate, and the request duplicates a locate and mark completed in the last 12 months, the excavation work limitations in subsection (1) do not apply. The excavator shall provide the duplicate locate and mark information to the notification center prior to excavation, and a new locate and mark may be required."

Section 16. Section 69-4-504, MCA, is amended to read:

"69-4-504. Information to be part of architects' and engineers' plans. (1) Architects and engineers designing projects requiring excavation in or adjacent to any public street, alley, or right-of-way dedicated to public use or utility easement shall obtain information from the owners of underground facilities facility owners and then make the information a part of the plan by which the contractors operate. The owners of the underground facilities facility owners shall make available all records showing the locations of underground facilities and shall provide locates engineering locate requests, if requested, pursuant to 69-4-503.

(2) This section does not excuse a person from the obligation imposed by 69-4-502(1) when excavating."

Section 17. Section 69-4-508, MCA, is amended to read:

"69-4-508. Emergency location and excavation. (1) When an emergency excavation is required, the excavator shall notify the one-call notification center. An underground facility owner shall respond as soon as is practical after notification.

(2) Requesting an Making an emergency locate request or an emergency excavation that is not an emergency locate request or an emergency excavation as those terms are defined constitutes a false alarm pursuant to 45-7-204 and is subject to the penalties under 45-7-204."

Section 18. Section 69-4-512, MCA, is amended to read:

"69-4-512. Judicial review. (1) An excavator subject to repair costs charges and damage fees described in 69-4-505 may have these repair costs reviewed by a court of competent jurisdiction.

(2) An excavator or underground facility owner subject to a civil penalty in accordance with [section 5 or 6] may have the civil penalty reviewed by a court of competent jurisdiction as provided in 2-4-702."

Section 19. Repealer. The following sections of the Montana Code Annotated are repealed:

69-4-505. Liability for damages to underground facilities.

69-4-513. Disposition of damage fees collected.

69-4-514. Incident histories.

Section 20. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 21. Codification instruction. [Sections 1 through 11] are intended to be codified as an integral part of Title 69, chapter 4, part 5, and the provisions of Title 69, chapter 4, part 5, apply to [sections 1 through 11].

Section 22. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 23. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 24. Effective date. [This act] is effective July 1, 2017.

Section 25. Applicability. [This act] applies to incidents and events occurring on or after October 1, 2017.

Approved May 4, 2017

CHAPTER NO. 327

[HB 368]

AN ACT ESTABLISHING SETBACKS BETWEEN SEWAGE LAGOONS AND WATER WELLS; EXTENDING DEPARTMENT OF ENVIRONMENTAL QUALITY RULEMAKING AUTHORITY; PROVIDING A RULEMAKING EXCEPTION; ELIMINATING THE PROHIBITION ON LOCATING SEWAGE LAGOONS WITHIN 500 FEET OF A WATER WELL; AND AMENDING SECTIONS 75-5-201 AND 75-5-605, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Establishing setbacks -- rulemaking. The department shall adopt rules establishing setback area requirements between sewage lagoons and water wells to prevent water well contamination.

Section 2. Section 75-5-201, MCA, is amended to read:

"75-5-201. Board rules authorized. (1) (a) The board shall, *except as provided in [section 1]* and subject to the provisions of 75-5-203, adopt rules for the administration of this chapter.

(b) The board shall adopt rules that describe the location and the times of the year when suction dredging is permissible. These rules may be adopted only after consultation with the local conservation districts in the areas subject to the rule.

(2) The board's rules may include a fee schedule or system for assessment of administrative penalties as provided under 75-5-611."

Section 3. Section 75-5-605, MCA, is amended to read:

"75-5-605. Prohibited activity -- exemption. (1) It is unlawful to:

(a) cause pollution, as defined in 75-5-103, of any state waters or to place or cause to be placed any wastes where they will cause pollution of any state waters. Any placement of materials that is authorized by a permit issued by any state or federal agency is not a placement of wastes within the prohibition

of this subsection (1)(a) if the agency's permitting authority includes provisions for review of the placement of materials to ensure that it will not cause pollution of state waters.

(b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in the permit;

~~(c) site and construct a sewage lagoon less than 500 feet from an existing water well;~~

~~(d)(c)~~ cause degradation of state waters without authorization pursuant to 75-5-303;

~~(e)(d)~~ violate any order issued pursuant to this chapter; or

~~(f)(e)~~ violate any provision of this chapter.

(2) Except for the permit exclusions identified in 75-5-401(5), it is unlawful to carry on any of the following activities without a current permit from the department:

(a) construct, modify, or operate a disposal system that discharges into any state waters;

(b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into any state waters; or

(c) discharge sewage, industrial wastes, or other wastes into any state waters.

(3) Activities associated with routine or periodic maintenance, repair, replacement, or operation of irrigation water conveyance systems, including activities associated with any constructed channel, canal, ditch, pipeline, or portion of any constructed channel, canal, ditch, or pipeline, are not prohibited activities under this chapter if the activities do not result in exceeding water quality standards for any receiving water outside the irrigation water conveyance system. The diversion of water in accordance with an existing water right or permit pursuant to Title 85, chapter 2, is not a prohibited activity under this chapter."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 1].

Section 5. Coordination instruction. If both Senate Bill No. 337 and [this act] are passed and approved, then [section 2 of this act] is void.

Approved May 4, 2017

CHAPTER NO. 328

[HB 383]

AN ACT INCREASING FUNDING FOR THE SHERIFFS' RETIREMENT SYSTEM SO IT WILL BE ACTUARIALLY SOUND; INCREASING EMPLOYEE AND EMPLOYER CONTRIBUTION RATES; TERMINATING THE CONTRIBUTION INCREASES WHEN CERTAIN ACTUARIAL CONDITIONS ARE MET; EXEMPTING THE EMPLOYER CONTRIBUTION INCREASE FROM THE COUNTY MILL LEVY CAP; AMENDING SECTIONS 15-10-420, 19-7-403, AND 19-7-404, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes

actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary; or

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b).

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit."

Section 2. Section 19-7-403, MCA, is amended to read:

"19-7-403. Member's contributions deducted. (1) (a) ~~Each Subject to subsection (1)(b), each member's contribution is 9.245%~~ 10.495% of the member's compensation.

(b) *The member's contribution required under subsection (1) must be reduced to 9.245% on July 1 following the board's receipt of the system's actuarial valuation if:*

(i) *the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments that become effective after the valuation, is less than 25 years; and*

(ii) *reducing the member contributions and terminating the additional employer contributions pursuant to 19-7-404(4)(b) would not cause the system's amortization period as of the most recent actuarial valuation to exceed 25 years.*

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and salary as used to define the member's highest average compensation in 19-7-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 3. Section 19-7-404, MCA, is amended to read:

"19-7-404. Employer contributions. (1) Each employer shall pay 9.535% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership.

(2) (a) ~~If the required contribution to the retirement system exceeds contributions under subsections (1) and (3)(a) exceed the funds available to a county from general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed to meet the county's obligation.~~

(b) (i) *A county may impose a mill levy to fund the employer contribution required under subsection (3)(b). The mill levy is not subject to 15-10-420(1) or to approval at an election under 15-10-425.*

(ii) *Each year prior to implementing a levy under subsection (2)(b)(i), after notice of the hearing given under 7-1-2121, a public hearing must be held regarding any proposed increase.*

(iii) *If a levy pursuant to this subsection (2)(b) is decreased or ceases to be levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).*

(3) Subject to subsection (4), each employer shall contribute to the system ~~an additional employer contribution~~ contributions equal to:

(a) 0.58% of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership; and

(b) 3% of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.

(4) (a) The board shall periodically review the additional employer ~~contribution~~ contributions provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer ~~contribution~~ contributions required under subsection (3) ~~terminates~~ terminate on July 1 following the board's receipt of the system's actuarial valuation if:

(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements ~~enacted by the legislature that become effective~~ after the valuation, is less than 25 years; and

(ii) terminating the additional employer ~~contribution~~ *contributions and reducing the member contributions pursuant to 19-7-403(1)(b)* would not cause the amortization period ~~as of the most recent actuarial valuation~~ to exceed 25 years.”

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 4, 2017

CHAPTER NO. 329

[HB 449]

AN ACT REVISING THE DEFINITION OF “WAGES” IN WORKERS’ COMPENSATION AND THE SMALL BUSINESS HEALTH INSURANCE PURCHASING POOL; AND AMENDING SECTION 39-71-123, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-123, MCA, is amended to read:

“39-71-123. Wages defined. (1) “Wages” means ~~all~~ *all* remuneration paid for services performed by an employee for an employer, or income provided for in subsection ~~(1)(d)~~ *(1)(d)*. Wages include the cash ~~value of value of all~~ *value of all* remuneration paid ~~in any medium other than cash~~ *in any medium other than cash*. The term includes but is not limited to:

(a) *monetary* commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness;

(b) backpay or any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

~~(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;~~

~~(c) tips or other gratuities received by the employee to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;~~

~~(d)(d)~~ income or payment in the form of a draw, wage, net profit, or ~~substitute for~~ money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

~~(e) board, lodging, rent, or housing if it constitutes a part of the employee’s remuneration and is based on its actual value; and~~

~~(f)(e)~~ payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement;

~~(f) board if it constitutes a part of the employee’s remuneration and is based on its actual value; and~~

~~(g) lodging, rent, or housing if it constitutes part of the employee’s remuneration and is based on a value as set by administrative rule. The values set by administrative rule must address the general geographic proximity to available housing and may consider other reasonable factors that affect value.~~

(2) The term “wages” does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers’ compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special *monetary* rewards for individual invention or discovery; ~~or~~ *or*

(e) ~~monetary and other~~ *and other* benefits paid to a person as part of public assistance, as defined in 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) Except as provided in 39-71-118(10)(c), the compensation benefits for a covered volunteer must be based on the average actual *monetary* wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual *monetary* wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred.

(5) For the purposes of calculating compensation benefits for an employee working for an employer, as provided in 39-71-117(1)(d), and for calculating premiums to be paid by that employer, the wages must be based upon all hours worked multiplied by the mean hourly wage by area, as published by the department in the edition of Montana Informational Wage Rates by Occupation, adopted annually by the department, that is in effect as of the date of injury or for the period in which the premium is due."

Approved May 4, 2017

CHAPTER NO. 330

[HB 485]

AN ACT REVISING THE REQUIREMENTS FOR A DRIVER'S LICENSE FOR A PERSON SERVING IN THE ARMED FORCES; EXTENDING THE PERIOD FOR WHICH A DRIVER'S LICENSE IS VALID FROM THE DATE ON WHICH

A LICENSEE IS HONORABLY SEPARATED FROM THE SERVICE; AND AMENDING SECTION 61-5-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-104, MCA, is amended to read:

“61-5-104. Exemptions. (1) The following persons are exempt from licensure under this chapter:

(a) a person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

(b) a person who is a member of the armed forces of the United States on active duty in Montana who holds a valid license issued by another state and the spouse of the person who holds a valid license issued by another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required by 61-5-102, within 90 days of becoming employed.

(c) a person on active duty in the armed forces of the United States and in immediate possession of a valid license issued to that person in a foreign country by the armed forces of the United States, for a period of 45 days from the date of the person's return to the United States;

(d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

(e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon rails, including operation on a railroad crossing a public street, road, or highway. A person employed as described in this subsection is not required to display a driver's license to a law enforcement officer in connection with the operation of a railroad train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license issued under this chapter.

(2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid operator's license issued to the nonresident by the nonresident's home state or country may operate a motor vehicle, except a commercial motor vehicle, in this state.

(3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

(b) For the purpose of this chapter, “jurisdiction” means a state, territory, or possession of the United States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

(4) A nonresident who is at least 18 years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar

year, if the motor vehicle is registered in the home state or country of the nonresident.

(5) (a) A driver's license issued under this chapter to a person who enters the United States armed forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to ~~30 days~~ *90 days* following the date on which the licensee is honorably separated from the service.

(b) A person serving in the United States armed forces may renew the person's driver's license at any point of the person's service, and any renewed license continues in effect as long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, ~~and for up to 30 days following the date on which the licensee is honorably separated from the service.~~

(c) A person serving in the United States armed forces may apply for a Montana driver's license upon meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to ~~30 days~~ *90 days* following the date on which the licensee is honorably separated from the service."

Approved May 4, 2017

CHAPTER NO. 331

[HB 487]

AN ACT REVISING LAWS RELATED TO PROTECTING YOUTH ATHLETES FROM PERMANENT INJURY AND DEATH RELATED TO CONCUSSION; EXPANDING EXISTING REQUIREMENTS TO INCLUDE NONPUBLIC SCHOOLS AND YOUTH ATHLETIC ORGANIZATIONS; REVISING DEFINITIONS; PROVIDING IMMUNITY FOR CERTAIN VOLUNTEERS; AMENDING SECTIONS 20-7-1301, 20-7-1302, AND 20-7-1303, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1301, MCA, is amended to read:

"20-7-1301. Purpose – intent – *immunity*. (1) The legislature finds that protecting youth athletes from serious injury is a compelling state interest. The purpose of 20-7-1301 through 20-7-1304 is to prevent permanent injury and death to youth athletes in the state of Montana. To further this interest, the legislature finds:

(a) concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities;

(b) a concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull;

(c) the risks of catastrophic injuries or death are significant when a concussion or brain injury is not properly evaluated and managed;

(d) concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works;

(e) concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, with the ground, or with obstacles;

(f) concussions occur with or without loss of consciousness; and

(g) continuing to play with a concussion or symptoms of brain injury leaves the youth athlete especially vulnerable to greater injury and even death.

(2) (a) Sections 20-7-1301 through 20-7-1304 do not create a new cause of action.

(b) *A person acting in an individual capacity and not on behalf of the state or any political subdivision of the state who volunteers to assist with an organized youth athletic activity is not liable for civil damages arising out of an act or omission relating to the requirements of 20-7-1301 through 20-7-1304. This subsection (2)(b) does not apply to liability for willful or wanton misconduct.*

Section 2. Section 20-7-1302, MCA, is amended to read:

“20-7-1302. Definitions. As used in 20-7-1301 through 20-7-1304, the following definitions apply:

(1) “Concussion” means an injury to the brain arising from blunt trauma, an acceleration force, or a deceleration force, which may include one of the following observed or self-reported conditions attributable to the injury:

- (a) transient confusion, disorientation, or impaired consciousness;
- (b) dysfunction of memory;
- (c) loss of consciousness; or
- (d) signs of other neurological or neuropsychological dysfunction, including:
 - (i) increased irritability;
 - (ii) lethargy;
 - (iii) vomiting;
 - (iv) headache;
 - (v) dizziness;
 - (vi) fatigue;
 - (vii) decreased balance; and
 - (viii) seizures.

(2) “Licensed health care professional” means a registered, licensed, certified, or otherwise statutorily recognized health care professional whose training ~~includes the evaluation and management of concussions~~ *includes the evaluation and management of concussions consistent with current medical knowledge.*

(3) (a) “Organized youth athletic activity” means an athletic activity ~~sponsored by a school or school district~~ *organized or sponsored by a school district, nonpublic school, or youth athletic organization* in which the participants are engaged in an athletic game or competition against another team, club, or entity, in practice, tryouts, training exercises, or sports camps, or in preparation for an athletic game or competition against another team, club, or entity.

(b) *The term does not include recess or physical education classes conducted by a school district or nonpublic school.*

(4) “Youth athlete” means an individual who is an active participant in an organized youth athletic activity.

(5) *“Youth athletic organization” means any entity that organizes or sponsors an organized youth athletic activity.”*

Section 3. Section 20-7-1303, MCA, is amended to read:

“20-7-1303. Youth athletes – concussion education requirements.

(1) Each school district, *nonpublic school, or youth athletic organization* in this state offering organized youth athletic activities shall adopt policies and procedures to inform ~~athletic trainers~~, coaches, officials, youth athletes, and parents or guardians of the nature and risk of brain injuries, including the effects of continuing to play after a concussion. The policies, content, and protocols must be consistent with current medical knowledge ~~and guidelines~~

~~provided by the U.S. department of health and human services, centers for disease control and prevention~~, as to:

- (a) the nature and risk of brain injuries associated with athletic activity;
- (b) the signs, symptoms, and behaviors consistent with a brain injury;
- (c) the need to alert a licensed health care professional for urgent recognition and treatment when a youth athlete exhibits signs, symptoms, or behaviors consistent with a concussion; and
- (d) the need to follow proper medical direction and protocols for treatment and returning to play after a youth athlete sustains a concussion.

(2) A form documenting that educational materials referred to in subsection (1) have been provided to and viewed by each youth athlete and the youth athlete's parent or guardian must be signed by each youth athlete and the youth athlete's parent or guardian and returned to an official designated by the ~~school or school district~~, *nonpublic school, or youth athletic organization* prior to the youth athlete's participation in organized youth athletic activities ~~for the subsequent school year. The form shall apply for a period not to exceed 1 year.~~

(3) School districts, *nonpublic schools, and youth athletic organizers* shall ensure access to a training program consistent with subsection (1). Each coach, ~~athletic trainer~~, and official participating in organized youth athletic activities shall complete the training program at least once each ~~school~~ year.

(4) School districts, *nonpublic schools, and youth athletic organizations* may invite the participation of appropriate advocacy groups and appropriate sports governing bodies to facilitate the requirements of subsections (1) through (3)."

Section 4. Effective date – applicability. [This act] is effective October 1, 2017, and applies to occurrences on or after October 1, 2017.

Approved May 4, 2017

CHAPTER NO. 332

[HB 565]

AN ACT REVISING THE ENTITLEMENT SHARE PAYMENT LAWS; REVISING ENTITLEMENT SHARE GROWTH RATES FOR FISCAL YEARS 2018 AND 2019; REVISING THE GROWTH RATE FOR THE REIMBURSEMENT FOR CLASS EIGHT TAX RATE REDUCTIONS AND EXEMPTIONS; PROVIDING REASONS FOR WHICH AN ENTITLEMENT SHARE PAYMENT MUST BE WITHHELD; AMENDING SECTIONS 15-1-121, 15-1-123, AND 20-9-630, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment – purpose – appropriation.

(1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by

percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-9-506; and

(iv) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(h) late filing fees pursuant to 61-3-220;

(i) title and registration fees pursuant to 61-3-203;

(j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;

(l) special mobile equipment fees pursuant to 61-3-431;

(m) single movement permit fees pursuant to 61-4-310;

(n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(3) ~~(a) Except as provided in subsection (3)(b), the~~ *Except as provided in subsection (7)(b), the* total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. ~~Subject to subsection (3)(b), the~~ *The* sum of all local governments' base components is the fiscal year entitlement share pool.

~~(b) For fiscal year 2016, the fiscal year entitlement share pool is reduced by \$1,049,904.~~

(4) (a) ~~Subject to subsection (3)(b)~~ *Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.*

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide budgeting and accounting system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in ~~subsection~~ *subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:*

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) ~~For fiscal year 2016, the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment minus \$1,049,904 to determine the subsequent fiscal year payment. The entitlement share growth rate, as described in this subsection (4), is:~~

(A) *for fiscal year 2018, 1.005;*

(B) *for fiscal year 2019, 1.0187;*

(C) *for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).*

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2) for local governments, the funding provided for in subsection (8) of this section, and the amounts determined under 15-1-123(4) for tax increment financing districts are statutorily appropriated, as provided

in 17-7-502, from the general fund to the department for distribution to local governments. ~~Except for the distribution made under 15-1-123(2)(b), the distributions must be made on a quarterly basis.~~

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(2).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(2) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(4), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) ~~Except for the reimbursement made under 15-1-123(4)(b), one-half~~ One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Deer Lodge	TIF District 1	\$2,833
Deer Lodge	TIF District 2	2,813
Flathead	Kalispell - District 2	4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009
Silver Bow	Butte - uptown	255,421

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, from countywide transportation block grants, or from countywide retirement block grants.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) (a) ~~Except as provided in 2-7-517,~~ a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) *fails to remit any amounts collected on behalf of the state as required by 15-1-504 or any other amounts owed to the state or another taxing jurisdiction, as otherwise required by law, within 45 days of the end of a month.*

(c) *A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:*

(i) *file a financial report required by 15-1-504;*

(ii) *remit any amounts collected on behalf of the state as required by 15-1-504; or*

(iii) *remit any other amounts owed to the state or another taxing jurisdiction."*

Section 2. Section 15-1-123, MCA, is amended to read:

"15-1-123. Reimbursement for class eight rate reduction and exemption – distribution – appropriations. (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4), the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall ~~for the fiscal years ending June 30, 2014, and June 30, 2015, estimate for~~ *reimburse* each local government, as defined in 15-1-121(5), each school district, the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108 the difference between property tax collections under 15-6-138 as amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference is the annual reimbursable amount for each local government, each school district, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-108.

(2) (a) The department shall distribute the reimbursements calculated in subsection (1) to local governments with the entitlement share payments under 15-1-121(7) ~~for the fiscal year ending June 30, 2015. Local government reimbursements for subsequent years are made pursuant to the entitlement share recomputation as provided in 15-1-121(6). For fiscal year 2018 and thereafter, the growth rate applied to the reimbursement is one-half of the average rate of inflation for the prior 3 years.~~

(b) ~~For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each local government. By June 15, 2014, the department shall distribute the amount determined under this subsection (2)(b) for local governments as provided in 15-1-121(6)(a).~~

(3) (a) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to school districts with the block grants pursuant to 20-9-630 ~~for the fiscal year ending June 30, 2015. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.~~

(b) ~~For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each school district. By November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection (3)(b) in the same manner as the block grant is distributed by fund under 20-9-630.~~

(4) (a) ~~For the fiscal year ending June 30, 2015, the~~ *The* amount determined under subsection (1) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

~~(b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each tax increment financing district. By June 15, 2014, the department shall distribute the amount determined under this subsection (4)(b) to each tax increment financing district as provided in 15-1-121(8) and to any other tax increment financing district that is entitled to a reimbursement under this section.~~

(5) (a) ~~For the fiscal year ending June 30, 2015, the~~ *The* amount determined under subsection (1) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-108.

~~(b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for the 6-mill university levy. By June 15, 2014, the department of administration shall transfer the amount determined under this subsection (5)(b) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.~~

~~(c)(b) Beginning in fiscal year 2013, the~~ *The* department of administration shall transfer the ~~amounts~~ *amount* determined under this subsection (5) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(6) (a) ~~The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the countywide retirement fund under 20-9-501 for the fiscal year ending June 30, 2015. One-half of the amount must be distributed in November and the remainder in May.~~

~~(b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection (6)(b) to the countywide retirement fund.~~

(7) (a) The office of public instruction shall distribute the reimbursements calculated in subsection (1) to the county transportation *fund* reimbursement under 20-10-146 ~~for the fiscal year ending June 30, 2015~~. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632.

~~(b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection (7)(b) to the county transportation reimbursement."~~

Section 3. Section 20-9-630, MCA, is amended to read:

"20-9-630. School district block grants. (1) (a) The office of public instruction shall provide a block grant to each school district based on:

(i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate income taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

(ii) any reimbursement to be made to a school district pursuant to subsection (2).

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(2) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the office of public instruction shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to block grant distributions under this section. ~~Except for the reimbursement made under 15-1-123(3)(b), the~~ The total of reimbursement distributions made pursuant to this subsection in a fiscal year must be added to all other distributions to the school district in the fiscal year to determine the distribution for the subsequent fiscal year.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(4) (a) The block grant for the district general fund is equal to the amount received in fiscal year 2011 by the district general fund from the block grants provided for in subsection (1) and the amount received by the district general fund under subsection (2); ~~except the amount received under 15-1-123(3)(b).~~

(b) The block grant for the district transportation fund is equal to the amount received in fiscal year 2011 by the district transportation fund from the block grants provided for in subsection (1) and the amount received by the district transportation fund under subsection (2); ~~except the amount received under 15-1-123(3)(b).~~

(c) (i) The combined fund block grant is equal to the amount received in fiscal year 2011 and the amount received under subsection (2); ~~except the amount received under 15-1-123(3)(b).~~

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 4, 2017

CHAPTER NO. 333

[HB 583]

AN ACT PROVIDING FOR ASSESSMENT, CLASSIFICATION, AND VALUATION OF CERTAIN LAND THAT IS NOT USED AS FOREST LAND; REQUIRING ANY SEPARATION OF PROPERTY FROM FOREST LAND FOR OTHER PURPOSES TO BE CLASSIFIED ACCORDING TO USE; CLASSIFYING THE 1 ACRE BENEATH A RESIDENCE ON FOREST LAND AS CLASS FOUR PROPERTY THAT IS VALUED AT MARKET VALUE; AMENDING SECTION 15-6-134, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Tax on change of use of part of tract. (1) Land that is valued, assessed, and taxed under this part that is separated or split from forest land, either by conveyance or other action of the owner, for a use other than forest land or associated forest land management, must be reclassified by the department according to its use.

(2) Reclassification under subsection (1) does not impair the right of the remaining forest land that was not reclassified based on use as long as the land meets the minimum requirements of this part.

Section 2. Section 15-6-134, MCA, is amended to read:

“15-6-134. Class four property – description – taxable percentage.

(1) Class four property includes:

(a) subject to subsection ~~(1)(d)~~ (1)(e), all land, except that specifically included in another class;

(b) subject to subsection ~~(1)(d)~~ (1)(e):

(i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;

(iii) vacant residential lots; and

(iv) rental multifamily dwelling units.

(c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(d) 1 acre of real property beneath an improvement used as a residence on land eligible for valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

~~(d)~~(e) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated; and

(iv) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through ~~(1)(c)~~ (1)(d) of this section is taxed at 1.35% of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(4) Property described in subsection ~~(1)(d)(ii)~~ (1)(e)(ii) is taxed at one-half the tax rate established in subsection (3)(c).”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 44, part 1, and the provisions of Title 15, chapter 44, part 1, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2016, and to the reappraisal cycle beginning January 1, 2017.

Approved May 4, 2017

CHAPTER NO. 334

[HB 589]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO MONITOR AND REPORT ON FACTORS RELATED TO CHILDREN'S MENTAL HEALTH OUTCOMES; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Monitoring of children's mental health outcomes – report. (1) The department shall monitor the status of children receiving targeted case management services in the state-funded children's mental health system each fiscal year to determine whether, after receiving services, the children are able to remain at home, in school, and out of trouble.

(2) The department shall monitor the following factors to determine whether children receiving targeted case management services are able to return to or remain at home:

(a) whether a child remained in the home while receiving services or returned to the home after receiving out-of-home services;

(b) the number of children placed in out-of-home mental health treatment;

(c) the number of children who were placed in or left a foster care or correctional setting; and

(d) the number and types of home and community-based services that children received.

(3) The department shall work with schools to monitor, to the extent possible, the following factors related to the school success of a child receiving targeted case management services:

(a) the number of children who did not return to or dropped out of school; and

(b) the number of children who did not advance to the next grade level.

(4) The department shall work with the juvenile justice system to monitor, to the extent possible, the following factors related to whether a child receiving targeted case management services has remained out of trouble after receiving mental health services:

(a) the number of children receiving treatment for substance use;

(b) the number of children referred to youth court; and

(c) the number of children who completed suicide.

(5) The department shall report annually to the children, families, health, and human services interim committee and to the legislature as provided in 5-11-210 on the information required under this section.

Section 2. Appropriation. There is appropriated \$5,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2017, to carry out the purposes of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, part 5, and the provisions of Title 53, chapter 21, part 5, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 4, 2017

CHAPTER NO. 335

[HB 600]

AN ACT REVISING LAWS RELATED TO VICTIMS' RIGHTS; PROVIDING FOR THE ENFORCEMENT OF VICTIMS' RIGHTS; PROVIDING FOR A VICTIM'S RIGHTS CARD; PROVIDING FOR RULEMAKING AUTHORITY TO THE DEPARTMENT OF CORRECTIONS FOR RULES RELATED TO VICTIMS' RIGHTS; AMENDING SECTION 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enforcement of victim's rights. (1) (a) A peace officer shall make a reasonable attempt to give a victim's rights card to a person who is known to be the primary victim of a crime. A victim who receives a victim's rights card and is given contact information for a peace officer is presumed to have asserted the victim's rights provided in Article II, section 36, of the Montana constitution.

(b) Any other victim, a victim's attorney, or a victim's legal representative who is unknown to a peace officer or a prosecutor may assert and seek enforcement of the rights provided in Article II, section 36, of the Montana constitution.

(c) The rights enumerated in Article II, section 36, of the Montana constitution may be asserted or waived by the victim any time after victimization occurs.

(2) With regard to implementation of Article II, section 36, of the Montana constitution:

(a) "delinquency", "felony", and "misdemeanor" refer to offenses under Title 30, Title 41, Title 45, Title 49, and Title 52;

(b) "person" means an individual, a human being, or a natural person and also includes a corporation, organization, or other legal entity;

(c) "proceeding" means a proceeding that is heard or that may be heard before a judicial or other governmental agency or by an official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, or other person taking testimony or a deposition in connection with the proceeding; and

(d) "victim's rights card" means a card, also known as a Marsy's card, that informs a crime victim of the rights enumerated in Article II, section 36, of the Montana constitution.

Section 2. Victim's rights card. The attorney general shall develop a model form of the victim's rights card as provided in Article II, section 36, of the Montana constitution. In addition to the requirements of the card and as provided in Article II, section 36, of the Montana constitution, a local law enforcement agency may provide additional information.

Section 3. Information sharing. (1) Article II, section 36(1)(e), of the Montana constitution, does not prohibit the sharing of victim information:

(a) with a domestic violence shelter, crisis line, victim's services provider, or a multidisciplinary team tasked with responding to issues of domestic and sexual violence; or

(b) pursuant to a court order.

(2) A victim may request that the victim's information not be shared under subsection (1)(a) with a domestic violence shelter, crisis line, victim's services provider, or multidisciplinary team tasked with responding to issues of domestic and sexual violence.

Section 4. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) to carry out the purposes of 41-5-125;

(ii) for the siting, establishment, and expansion of prerelease centers;

(iii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iv) for the establishment and maintenance of residential methamphetamine treatment programs; **and**

(v) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law; **and**

(vi) *to carry out the purposes of Article II, section 36, of the Montana constitution;*

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody,

supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(h) collect and disseminate information relating to youth who are committed to the department for placement in a state youth correctional facility;

(i) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(j) provide funding for youth who are committed to the department for placement in a state youth correctional facility;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

(m) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on juvenile parole supervision.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without

community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.”

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 46, chapter 24, and the provisions of Title 46, chapter 24, apply to [sections 1 through 3].

Section 6. Effective date. [This act] is effective July 1, 2017.

Section 7. Applicability. [This act] applies to victimizations occurring on or after [the effective date of this act].

Approved May 4, 2017

CHAPTER NO. 336

[HB 647]

AN ACT GENERALLY REVISING EDUCATION FUNDING LAWS; IMPLEMENTING PORTIONS OF THE GENERAL APPROPRIATIONS ACT; ELIMINATING THE NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT AND SCHOOL DISTRICT GENERAL FUND BLOCK GRANTS; INCREASING THE GUARANTEED TAX BASE MULTIPLIER; ELIMINATING THE STATUTORY APPROPRIATION FOR THE STATE SCHOOL OIL AND NATURAL GAS IMPACT ACCOUNT AND THE STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; REDIRECTING ANY EXCESS INTEREST AND INCOME REVENUE FROM SCHOOL TRUST LANDS TO SCHOOL FACILITIES; ELIMINATING INFLATIONARY INCREASES FOR COUNTY SCHOOL TRANSPORTATION BLOCK GRANTS; REVISING TERMINATION DATES OF CERTAIN 2015 AMENDMENTS; EXPANDING USE OF FUNDING FOR SECONDARY K-12 CAREER AND VOCATIONAL/ TECHNICAL EDUCATION; REVISING EXCESS OIL AND NATURAL GAS REVENUE DISTRIBUTION; REVISING STATE SHARE CALCULATIONS FOR COMMUNITY COLLEGES; PROVIDING FOR TRANSFERS; CREATING A NATURAL RESOURCE DEVELOPMENT K-12 SCHOOL FACILITIES PAYMENT; CREATING A COAL-FIRED GENERATING UNIT CLOSURE MITIGATION BLOCK GRANT; AMENDING SECTIONS 17-7-502, 20-7-102, 20-7-306, 20-9-141, 20-9-306, 20-9-310, 20-9-342, 20-9-344, 20-9-366, 20-9-517, 20-9-518, 20-9-520, 20-9-622, 20-9-630, 20-9-632, AND 20-15-310, MCA; AMENDING SECTION 7, CHAPTER 433, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; ~~20-9-517; 20-9-520~~; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 2. Section 20-7-102, MCA, is amended to read:

“20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, “7th and 8th grades funded at high school rates” means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306(15)(c)(ii) 20-9-306(14)(c)(ii).”

Section 3. Section 20-7-306, MCA, is amended to read:

“20-7-306. Distribution of secondary K-12 career and vocational/technical education funds. (1) The superintendent of public instruction shall categorize secondary K-12 career and vocational/technical education programs ~~according to the relative additional costs of those programs~~ based on weighted factors, including but not limited to:

(a) K-12 career and vocational/technical education enrollment;
(b) approved career and technical student organizations;
(c) field supervision of students beyond the school year for K-12 career and vocational/technical education; and

(d) district expenditures related to the K-12 career and vocational/technical education programs; and (e) *student participation in workforce development activities, including but not limited to:*

(i) *attainment of industry-recognized professional certifications; and*
(ii) *work-based learning programs, such as internships and registered apprenticeships.*

(2) The superintendent of public instruction shall adjust the weighted factors outlined in subsection (1) as necessary to ensure that the allocations do not exceed the amount appropriated.

(3) Except for other expenditures outlined in subsection (1)(d), funding must be based upon the calculation for secondary K-12 career and vocational/technical education programs of the high school district in the year preceding the year for which funding is requested. Funding for the expenditures referred to in subsection (1)(d) must be based on the calculation for the secondary K-12 career and vocational/technical education programs of the high school district for the 2 years preceding the year for which funding is requested. The funding must be computed for each separate secondary K-12 career and vocational/technical education program.

(4) For secondary career and vocational/technical education programs, the total funding must be distributed to eligible programs based on the four factors listed in subsections (1)(a) through (1)(d).

(5) The superintendent of public instruction shall annually distribute the funds allocated in this section by November 1. The money received by the high school district must be deposited into the subfund of the miscellaneous programs fund established by 20-9-507 and may be expended only for approved

secondary K-12 career and vocational/technical education programs. The expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

(6) Any increase in the amount distributed to a school district from the biennial state appropriation for secondary K-12 career and vocational/technical education must be used for the expansion and enhancement of career and vocational/technical education programs and may not be used to reduce previous district spending on career and vocational/technical education programs."

Section 4. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid, ~~the natural resource development K-12 funding payment~~; and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

(v) ~~school district block grants distributed under 20-9-630; and any portion of the combined fund block grant allocated to the district general fund by the trustees pursuant to 20-9-630;~~

(vi) *if applicable, a coal-fired generating unit closure mitigation block grant as provided in [section 19]; and*

~~(vi)~~(vii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of:

(i) any amount remaining after the determination in subsection (1)(c);

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received

for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 5. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

~~(b) the natural resource development K-12 funding payment for a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district, as referenced in subsection (10);~~

~~(c)(b)~~ guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

~~(d)(c)~~ the total quality educator payment;

~~(e)(d)~~ the total at-risk student payment;

~~(f)(e)~~ the total Indian education for all payment;

~~(g)(f)~~ the total American Indian achievement gap payment; ~~and; and~~

~~(g)~~ the total data-for-achievement payment

~~(h)~~ the total data-for-achievement payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, ~~100% of the total data-for-achievement payment, 100% of the total data-for-achievement payment,~~ and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) \$300,000 for fiscal year 2016 and \$305,370 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$300,000 for fiscal year 2016 and \$305,370 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$15,000 for fiscal year 2016 and \$15,269 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$50,000 for fiscal year 2016 and \$50,895 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$50,000 for fiscal year 2016 and \$50,895 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,500 for fiscal year 2016 and \$2,545 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$50,000 for fiscal year 2016 and \$50,895 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$50,000 for fiscal year 2016 and \$50,895 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,500 for fiscal year 2016 and \$2,545 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$100,000 for fiscal year 2016 and \$101,790 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$100,000 for fiscal year 2016 and \$101,790 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,000 for fiscal year 2016 and \$5,090 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, ~~the total data-for-achievement~~

~~payment~~, the *total data-for-achievement payment*, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(10) "Natural resource development K-12 funding payment" means the payment of a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district. The total payment to school districts may not exceed the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided; plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The amount of the natural resource development K-12 funding payment must be, subject to the limitations of this subsection (10), an amount sufficient to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The superintendent of public instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with this subsection (10) in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112.~~

~~(11)(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.~~

~~(12)(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$205 in fiscal year 2016 and \$209 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.~~

~~(13)(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.~~

~~(14)(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.88 in fiscal year 2016 and \$21.25 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.~~

~~(15)(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:~~

~~(a) for a high school district or a K-12 district high school program, a maximum rate of \$6,847 for fiscal year 2016 and \$6,970 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;~~

~~(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,348 for fiscal year 2016 and \$5,444 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and~~

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$5,348 for fiscal year 2016 and \$5,444 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$6,847 for fiscal year 2016 and \$6,970 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

~~(16) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$20 for fiscal year 2016 and \$20.36 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.~~

(15) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$20 for fiscal year 2016 and \$20.36 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

~~(17)(16) "Total quality educator payment" means the payment resulting from multiplying \$3,113 in fiscal year 2016 and \$3,169 for each succeeding fiscal year by the number of full-time equivalent educators as provided in 20-9-327."~~

Section 6. Section 20-9-310, MCA, is amended to read:

"20-9-310. (Temporary) Oil and natural gas production taxes for school districts – allocation and limits. (1) Except as provided in subsection (6), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in 20-9-520.

(4) (a) By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) to school districts that are directly impacted by oil and natural gas development, but that receive insufficient oil and natural gas revenue to address the oil and natural gas development impacts. The office of public instruction shall adopt administrative rules to establish a process, criteria, and a mechanism for distribution under this subsection (4), using the negotiated rulemaking process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.

(b) In developing administrative rules, the office of public instruction shall establish two independent negotiated rulemaking committees to consider issues for the purpose of reaching a consensus to develop proposed rules for the distribution of the funds under this subsection (4).

(c) The members of the first negotiated rulemaking committee appointed by the office of public instruction must include public school officials and public school employees from school districts that are located in or are immediately adjacent to a county in which oil and natural gas production taxes are generated and professional organizations representing these public school officials and employees. This committee shall transmit proposed rules regarding distribution of 50% of the funds available under this subsection (4) in accordance with 2-5-108.

(d) The members of the second negotiated rulemaking committee appointed by the office of public instruction must include public school officials and public school employees from school districts around the state and professional organizations representing these public school officials and employees. This committee shall transmit proposed rules regarding the distribution of the remaining 50% of the funds available under this subsection (4) in accordance with 2-5-108.

(5) (a) Subject to the limitation in subsection (1) and the conditions in subsection (5)(b), the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

(b) Except as provided in subsection (5)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:

(i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;

(ii) the mills levied under subsection (5)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and

(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (5)(b)(i) must be added to the number of mills calculated in 20-9-141(2).

(c) The provisions of subsection (5)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than \$1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which the provisions of this subsection (5) would otherwise apply; or

(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the

district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

(6) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

(7) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall. (Terminates June 30, 2019 2017--sec. 7; Ch. 433, L. 2015.)

20-9-310. (Effective July 1, 2019 2017) Oil and natural gas production taxes for school districts – allocation and limits. (1) Except as provided in subsection (6), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the ~~state school oil and natural gas distribution account provided for in 20-9-520~~ *guarantee account provided for in 20-9-622*.

(4) By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations determined by the department of revenue pursuant to subsection (3) as follows:

(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and

(c) 25% of the retained amount must be distributed to the counties in proportion to a county's oil and natural gas production taxes for the preceding 3 years compared to the total of all counties' oil and natural gas production taxes for the preceding 3 years. Funds distributed must be deposited in a county's county school oil and natural gas impact fund provided for in 20-9-518.

(5)(4) (a) Subject to the limitation in subsection (1) and the conditions in subsection (5)(b) (4)(b), the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

(b) Except as provided in subsection ~~(5)(e)~~ (4)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:

(i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;

(ii) the mills levied under subsection ~~(5)(b)(i)~~ (4)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and

(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection ~~(5)(b)(i)~~ (4)(b)(i) must be added to the number of mills calculated in 20-9-141(2).

(c) The provisions of subsection ~~(5)(b)~~ (4)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than \$1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which the provisions of this subsection ~~(5)~~ (4) would otherwise apply; or

(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

~~(6)~~(5) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

~~(7)~~(6) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall."

Section 7. Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. ~~(1)~~(1) Except as provided in 20-9-516, the state board of land commissioners shall deposit the interest and income money for each fiscal year into the guarantee account, provided for in 20-9-622, by the last business day of February and June before the close of the fiscal year in which the money was received. ~~Except as provided in subsection (2), money~~ *Except as provided in subsection (2), money* in the guarantee account must be used for state equalization aid.

~~(2) Subject to subsection (3), any excess interest and income revenue deposited in the guarantee account in each fiscal year must be distributed in accordance with 20-9-622(2).~~

~~(3) The excess interest and income revenue must equal at least \$1 million in order to be distributed pursuant to subsection (2). Excess interest and income revenue of \$1 million or less must be carried forward and added to the excess interest and income revenue in the next ensuing school fiscal year and distributed in accordance with 20-9-622(2).~~

~~(4) For purposes of this section, "excess interest and income revenue" means an annual amount in excess of \$56 million.~~

~~(2) Any excess interest and income revenue deposited in the guarantee account in each fiscal year must be distributed in accordance with 20-9-622(2).~~

~~(3) For purposes of this section, "excess interest and income revenue" means an annual amount in excess of \$56 million."~~

Section 8. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status because of failure to meet the board of public education's assurance and performance standards.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment;

(v) the total American Indian achievement gap payment; *and*

(vi) the total data-for-achievement payment;

~~(vi) the total data-for-achievement payment; and~~

~~(vii) the total natural resource development K-12 funding payment;~~

(b) from December to April of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment;

(v) the total American Indian achievement gap payment; *and*

(vi) the total data-for-achievement payment;

~~(vi) the total data-for-achievement payment; and~~

~~(vii) the total natural resource development K-12 funding payment;~~

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, ~~the total data-for-achievement payment, and the total natural resource development K-12 funding payment, and the total data-for-achievement payment.~~

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 9. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326, divided by the district's prior year GTBA budget area.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's prior year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(4) "Guaranteed tax base aid budget area" or "GTBA budget area" means the portion of a district's BASE budget after the following payments are subtracted:

- (a) direct state aid;
- ~~(b) the total data-for-achievement payment;~~
- ~~(b)~~ *the total data-for-achievement payment;*
- ~~(c)~~ *(c)* the total quality educator payment;
- ~~(d)~~ *(d)* the total at-risk student payment;
- ~~(e)~~ *(e)* the total Indian education for all payment;
- ~~(f)~~ *(f)* the total American Indian achievement gap payment; and
- ~~(g)~~ *(g)* the state special education allowable cost payment.

(5) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 193% *for fiscal year 2018, 216% for fiscal year 2019, 224% for fiscal year 2020, and 232% for fiscal year 2021 and each succeeding fiscal year* and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts."

Section 10. Section 20-9-517, MCA, is amended to read:

"20-9-517. (Temporary) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 in an amount sufficient to address oil and natural gas development impacts. The funds in this account are statutorily appropriated as provided in 17-7-502.

(2) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

- (a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;
- (b) an unusual enrollment decrease;
- (c) higher rates of student mobility;
- (d) a district's need to hire new teachers or staff as a result of increased enrollment;
- (e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or
- (f) major maintenance for a school or district.

(3) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

- (a) the local district's or school's need;
- (b) the severity of the energy development impacts;
- (c) availability of funds in the account; and
- (d) the applicant district's ability to meet the needs identified in subsection (2).

(4) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(5) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2). (Terminates June 30, 2019 2017--sec. 7, Ch. 433, L. 2015.)

20-9-517. (Effective July 1, 2019 2017) State school oil and natural gas impact account. (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 in an amount sufficient to address oil and natural gas development impacts.

~~(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(4).~~

(3)(2) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) an unusual enrollment decrease;

(c) higher rates of student mobility;

(d) a district's need to hire new teachers or staff as a result of increased enrollment;

(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(f) major maintenance for a school or district.

(4)(3) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5)(4) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6)(5) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the guarantee account and distributed in the same manner as provided in ~~20-9-622(2)~~ 20-9-622(2)."

Section 11. Section 20-9-518, MCA, is amended to read:

"20-9-518. (Temporary) County school oil and natural gas impact fund. (1) The governing body of a county that has previously received an allocation under 20-9-310 shall maintain a county school oil and natural gas impact fund.

(2) Money previously received by a county pursuant to 20-9-310 must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

(b) the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$65. The average price for each barrel must be computed by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was reported in the quarter.

(3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.

(b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

(4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. The number of quality educators used for the calculation under this subsection in a district with territory in more than one county must be prorated based on the average number belonging of the district residing in school district territory located in each respective county. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.

(5) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2).

(6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(7) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund. (Terminates June 30, 2019 2017--sec. 7, Ch. 433, L. 2015.)

20-9-518. (Effective July 1, 2019 2017) County school oil and natural gas impact fund. (1) The governing body of a county receiving an allocation under ~~20-9-310(4)(b)~~ 20-9-310 shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-310(4)(b) must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

(b) the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$65. The average price for each barrel must be computed by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was reported in the quarter.

(3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.

(b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

(4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. The number of quality educators used for the calculation under this subsection in a district with territory in more than one county must be prorated based on the average number belonging of the district residing in school district territory located in each respective county. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.

(5) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2).

(6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(7) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund."

Section 12. Section 20-9-520, MCA, is amended to read:

"20-9-520. State school oil and natural gas distribution account.

(1) There is a state school oil and natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the account is for distribution of the oil and natural gas production revenue exceeding the limitation in 20-9-310(1) in accordance with 20-9-310(4). The funds deposited in this account for distribution to school districts and counties under 20-9-310(4) are statutorily appropriated as provided in 17-7-502.

(2) The department of revenue shall deposit in the account oil and natural gas production taxes that exceed the limitations in 20-9-310.

(3) The superintendent of public instruction shall distribute the money from the account in accordance with 20-9-310(4)."

Section 13. Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1)(1) There is a guarantee account in

the state special revenue fund. The guarantee account is intended to:

(a)(a) stabilize the long-term growth of the permanent fund; and

(b)(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. The guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

~~(2) Any excess interest and income revenue deposited in the guarantee account for distribution under this section must be allocated as follows:~~

~~(a) 50% of the excess interest and income revenue must be reserved for an appropriation in the next regular session of the legislature as part of the natural resource development K-12 funding payment referred to in 20-9-306; and~~

~~(b) 50% of the excess interest and income revenue must be distributed to schools on a per-quality-educator basis, with the amount to be distributed to each district calculated by dividing the total funds available for distribution under this subsection (2)(b) by the total number of quality educators, as defined in 20-4-502, employed by each school district in the state in the immediately preceding school fiscal year. A school district receiving funds under this section shall deposit the funds in its miscellaneous programs fund provided for in 20-9-507 and shall use the funds in the following order:~~

~~(i) to address any repairs categorized as "safety", "damage/wear out", or "codes and standards" in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility condition and needs assessment prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and~~

~~(ii) if repairs under subsection (2)(b)(i) have been completed, to any other purpose authorized by 20-9-543.~~

~~(2) Any excess interest and income revenue deposited in the guarantee account for distribution under this section must be transferred to the school facility and technology account provided for in 20-9-516."~~

Section 14. Section 20-9-630, MCA, is amended to read:

"20-9-630. School district block grants. (1) (a) The office of public instruction shall provide a block grant to each school district based on:

(i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate income taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

(ii) any reimbursement to be made to a school district pursuant to subsection (2) block grants to school districts in accordance with this section.

~~(b) Block grants must be calculated using the~~ The electronic reporting system that is used by the office of public instruction and school districts. ~~The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.~~

(2) If the legislature enacts a reimbursement provision *effective on or after July 1, 2017*, that is to be distributed pursuant to this section, the office of public instruction shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to block grant distributions under this section. Except for the reimbursement made under 15-1-123(3)(b), the total of reimbursement distributions made pursuant to this subsection in a fiscal year must be added to all other distributions to the school district in the fiscal year to determine the distribution for the subsequent fiscal year.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(4) (a) ~~The block grant for the district general fund is equal to the amount received in fiscal year 2011 by the district general fund from the block grants provided for in subsection (1) and the amount received by the district general fund under subsection (2), except the amount received under 15-1-123(3)(b).~~

(b)(a) The block grant for the district transportation fund is equal to the amount received in fiscal year ~~2011~~ 2017 by the district transportation fund from the block grants provided for in subsection (1) and the amount received by the district transportation fund under subsection (2), except the amount received under 15-1-123(3)(b).

(c)(b) (i) The combined fund block grant is equal to the amount received in fiscal year ~~2011~~ 2017 and the amount received under subsection (2), except the amount received under 15-1-123(3)(b).

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district."

Section 15. Section 20-9-632, MCA, is amended to read:

"20-9-632. Countywide school transportation block grants. (1) The office of public instruction shall distribute one-half of the amount appropriated for countywide school transportation in November and the remainder in May. The total amount for each county is *equal to the amount received in fiscal year 2017*. as follows:

	FY 2002	FY 2003
	Payment	Payment
Beaverhead	\$29,924	\$26,197
Big Horn	43,635	52,920
Blaine	3,727	13,433
Broadwater	14,935	21,769
Carbon	23,493	23,040
Carter	8,675	6,592
Cascade	84,382	43,722
Chouteau	33,063	27,043
Custer	7,069	6,272
Daniels	16,771	12,993
Dawson	21,356	14,001
Deer Lodge	14,392	12,532
Fallon	20,447	25,428
Fergus	58,765	29,415
Flathead	89,846	77,223
Gallatin	81,262	90,930
Garfield	17,284	7,135
Glacier	37,740	34,300
Golden Valley	3,547	3,664
Granite	8,153	6,858
Hill	46,409	40,781
Jefferson	36,329	34,817

Judith Basin	-16,878	-20,322
Lake	-69,756	-52,163
Lewis & Clark	-58,287	-69,535
Liberty	-15,874	-9,584
Lincoln	-50,388	-22,795
Madison	-21,263	-12,828
McCone	-12,498	-11,788
Meagher	-4,237	-6,976
Mineral	-7,478	-9,038
Missoula	-93,969	-94,480
Musselshell	-12,945	-20,627
Park	-31,904	-32,394
Petroleum	-9,854	-7,300
Phillips	-31,080	-43,872
Pondera	-22,599	-18,308
Powder River	-21,304	-21,795
Powell	-16,622	-14,507
Prairie	-8,544	-4,809
Ravalli	-60,579	-38,440
Richland	-32,995	-29,315
Roosevelt	-25,740	-40,216
Rosebud	-97,820	-90,850
Sanders	-71,581	-69,930
Sheridan	-12,946	-24,274
Silver Bow	-21,872	-18,381
Stillwater	-27,358	-17,543
Sweet Grass	-14,996	-6,340
Teton	-28,202	-20,759
Toole	-17,208	-15,592
Treasure	-5,446	-5,073
Valley	-26,677	-27,775
Wheatland	-9,142	-6,386
Wibaux	-6,198	-8,816
Yellowstone	-149,314	-146,210
Total	-1,814,759	-1,650,088

(2) The average of the block grants in fiscal years 2002 and 2003 must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.”

Section 16. Section 20-15-310, MCA, is amended to read:

“20-15-310. Appropriation – definitions. (1) It is the intent of the legislature that all community college spending, other than from restricted

funds, designated funds, or funds generated by an optional, voted levy, be governed by the provisions of this part and the state general appropriations act.

(2) (a) The state general fund appropriation *for each community college* must be determined as follows:

(i) multiply the variable cost of education per student by the full-time equivalent student count and add the budget amount for the fixed cost of education; and

(ii) multiply the total in subsection (2)(a)(i) by the state share.

(b) The variable cost of education per student, the budget amount for fixed costs, and the state share *for each community college* must be determined by the legislature. The state share *for each community college*, expressed as a percentage, and the variable cost of education per student must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(3) *The state general fund appropriation for each full-time equivalent resident student at a community college may not exceed the lesser of \$2,500 plus:*

(a) *the weighted average of state support per resident full-time equivalent student within the Montana university system; or*

(b) *the weighted average of state support per resident full-time equivalent student within the community college system.*

(4) *If enrollment for a community college is less than 200 full-time equivalent resident students for 24 consecutive academic months, the maximum state general fund appropriation for that community college may not exceed the lesser of:*

(a) *the weighted average of state support per resident full-time equivalent student within the Montana university system; or*

(b) *the weighted average of state support per resident full-time equivalent student within the community college system.*

(5) *At any time enrollment at a community college falls below 200 full-time equivalent resident students, the community college shall submit a business plan to the board of regents for review, approval, and monitoring. The business plan must include identifying what measures the community college will take to increase enrollment. The plan must be submitted to the board of regents within 1 month after enrollment falls below 200 full-time equivalent resident students.*

~~(3)~~(6) The student count may not include those enrolled in community service courses as defined by the board of regents.

~~(4)~~(7) As used in this section, the following definitions apply:

(a) "Adjusted cost of education" means the cost of education minus any reversion calculated under 17-7-142, expenditures from one-time-only legislative appropriations, and expenditures funded by local mill levies provided for in 2-9-212 and 20-9-501 in excess of the 2012 mill levy levels.

(b) "Cost of education" means the actual costs incurred by the community colleges during the budget base fiscal year, as reported on the current unrestricted operating fund schedule that is statutorily required to be submitted to the board of regents.

(c) "Fixed cost of education" means that portion of the adjusted cost of education, as determined by the legislature, that is not influenced by increases or decreases in student enrollment.

(d) "Variable cost of education per student" means that portion of the adjusted cost of education, as determined by the legislature, that is subject to change as a result of increases or decreases in student enrollment, divided by the actual student enrollment during the budget base fiscal year."

Section 17. Fund transfers. (1) By August 1, 2017, the state treasurer shall transfer \$1,288,833 from the incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account established in 20-26-1501 to a state special revenue account administered by the office of the commissioner of higher education for use in the western interstate commission for higher education to make agreements for placement of students as allowed under 20-25-803 and related programs.

(2) By August 1 in each fiscal year of the biennium, the state treasurer shall transfer \$100,000 from the fire suppression account established in 76-13-150 to the office of the commissioner of higher education for training firefighters pursuant to 20-31-402. The legislature intends that fire school training services will be funded from the general fund following the 2019 biennium.

(3) By August 1, 2017, the state treasurer shall transfer \$400,000 from the incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account established in 20-26-1501 to a state special revenue account administered by the office of the commissioner of higher education for the family practice rural residency graduate medical education program.

(4) By August 1, 2018, the state treasurer shall transfer \$400,000 from the general fund to a state special revenue account administered by the office of the commissioner of higher education for the family practice rural residency graduate medical education program.

Section 18. Natural resource development K-12 school facilities payment. (1) The natural resource development K-12 school facilities payment replaces the former natural resource development K-12 funding payment as a means to provide local property tax relief by supporting school district facility needs. The legislature intends for the new payment to grow in a manner similar to the previous payment as described in subsection (2) through fiscal year 2022 until other revenue to support school facilities has increased.

(2) Beginning in fiscal year 2019, the superintendent of public instruction shall annually deposit no later than March 31 in the school facility and technology account provided for in 20-9-516 the natural resource development K-12 school facilities payment, which is calculated as the greater of:

(a) \$5.8 million in fiscal year 2019, \$6.4 million in fiscal year 2020, \$7.6 million in fiscal year 2021, and \$10 million in fiscal year 2022, increased by an inflationary adjustment calculated as provided in 20-9-326 in each succeeding fiscal year; or

(b) 5% of the oil and natural gas production taxes deposited in the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the fiscal year of the payment.

(3) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall include a natural resource development K-12 school facilities payment for each year of the ensuing biennium calculated as described in subsection (2).

Section 19. Coal-fired generating unit closure mitigation block grant. (1) (a) The office of public instruction shall provide a coal-fired generating unit closure mitigation block grant to each school district with a fiscal year 2017 taxable valuation that includes a coal-fired generating unit with a generating capacity that is greater than or equal to 200 megawatts, was placed in service prior to 1980, and is retiring or planned for retirement on or before July 1, 2022.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district's general fund budget as an anticipated revenue source.

(2) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(3) The block grant is equal to the amount received in fiscal year 2017 by the district general fund from the block grants provided for in 20-9-630(4)(a) as that section read prior to July 1, 2017.

(4) (a) If the owner of a coal-fired generating unit that is retired or planned for retirement on or before July 1, 2022, makes a payment in accordance with a retirement plan approved by the department of environmental quality or a transition agreement with the governor and attorney general for the purpose of decommissioning requirements and a portion of the payment is allocated to a school district for the purposes of school funding cost shifts, then that portion must repay to the state general fund the cost of the block grant payments under this section, as discounted in accordance with an agreement for payment to the state, on the following schedule, not to exceed the limitation provided in subsection (4)(b):

(i) if the generating unit closes prior to June 30, 2018, 100% of the total block grant payments under this section must be returned to the general fund;

(ii) if the generating unit closes during fiscal year 2019, 90% of the block grant payments under this section must be returned to the general fund;

(iii) if the generating unit closes during fiscal year 2020, 80% of the block grant payments under this section must be returned to the general fund;

(iv) if the generating unit closes during fiscal year 2021, 70% of the block grant payments under this section must be returned to the general fund; and

(v) if the generating unit closes during fiscal year 2022 or on July 1, 2022, 60% of the block grant payments under this section must be returned to the general fund.

(b) Repayment under subsection (4)(a) may not exceed the amount of any portion of a payment allocated to a school district in accordance with a retirement plan or a transition plan.

Section 20. Section 7, Chapter 433, Laws of 2015, is amended to read:

"Section 7. Termination. [Sections 2, 3, and 4] terminate June 30, ~~2019~~ 2017."

Section 21. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 22. Codification instruction. [Sections 18 and 19] are intended to be codified as an integral part of Title 20, chapter 9, part 6, and the provisions of Title 20, chapter 9, part 6, apply to [sections 18 and 19].

Section 23. Coordination instruction. If both Senate Bill No. 307 and [this act] are passed and approved and if Senate Bill No. 307 contains a section that creates a new state special revenue account for school major maintenance aid, then the reference in 20-9-622 of [this act] to the "school facility and technology account provided for in 20-9-516" must be changed to the "school major maintenance aid account provided for in [section 8 of Senate Bill No. 307]".

Section 24. Coordination instruction. If both Senate Bill No. 307 and [this act] are passed and approved and if Senate Bill No. 307 contains a section that creates a new state special revenue account for school major maintenance aid, then the reference in [section 18 of this act] to the "school facility and technology account provided for in 20-9-516" must be changed to the "school

major maintenance aid account provided for in [section 8 of Senate Bill No. 307]”.

Section 25. Coordination instruction. (1) If Senate Bill No. 307 is not passed and approved, then the general fund appropriation for BASE aid in House Bill No. 2 must be increased by \$4.9 million for fiscal year 2018 and by \$5.8 million for fiscal year 2019 for the purpose of reinstating the natural resource development K-12 funding payment and adjusting guaranteed tax base aid accordingly.

(2) If Senate Bill No. 307 is not passed and approved, then [section 18 of this act] creating a natural resource development K-12 school facilities payment is void, and the sections in [this act] amending 20-7-102, 20-9-141, 20-9-306, 20-9-342, 20-9-344, and 20-9-622 are void and 20-9-141 must be amended as follows:

“20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district’s general fund on the basis of the following procedure:

(a) Determine the funding required for the district’s final general fund budget less the sum of direct state aid, the natural resource development K-12 funding payment, and the special education allowable cost payment for the district by totaling:

(i) the district’s nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

~~(v) school district block grants distributed under 20-9-630; and any portion of the combined fund block grant allocated to the district general fund by the trustees pursuant to 20-9-630;~~

~~(vi) if applicable, a coal-fired generating unit closure mitigation block grant as provided in [section 19]; and~~

~~(vii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE levy budget.~~

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of:

(i) any amount remaining after the determination in subsection (1)(c);

(ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the over-BASE budget levy; and

(iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 26. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 27. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Section 20] and this section are effective on passage and approval.

Section 28. Applicability. [This act] applies to school budgets for school years beginning on or after July 1, 2017.

Approved May 4, 2017

CHAPTER NO. 337

[SB 124]

AN ACT EXTENDING THE TERM FOR WHICH SCHOOL DISTRICT BONDS MAY BE ISSUED; AMENDING SECTION 20-9-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-410, MCA, is amended to read:

"20-9-410. Limitation of term and interest – timing for redemption.

(1) ~~School~~ *Except as provided in subsection (2), school* district bonds may not be issued for a term longer than ~~20~~ 20 years, except that bonds issued to refund or redeem outstanding bonds may not be issued for a term longer than 10 years unless the unexpired term of the bonds to be refunded or redeemed is in excess of 10 years, in which case the refunding or redeeming bonds may be issued for the unexpired term. Other than refunding or redeeming bonds, all

bonds issued for a longer term than 5 years must be redeemable at the option of the school district on any interest payment date after one-half of the term for which they were issued has expired, and the redemption option must be stated on the face of the bonds. The interest must be as provided under 17-5-102 and must be payable semiannually.

(2) School district bonds may be issued for a term of up to 30 years if the rate on the bonds is less than or equal to the rate on bonds issued with a term of 20 years and the bonds are sold to the United States or an agency, instrumentality, or corporation of the United States.

(2)(3) For purposes of this section, the term of a bond issue commences on July 1 of the fiscal year in which the school district first levies taxes to pay the principal and interest on the bonds."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2017

CHAPTER NO. 338

[HB 110]

AN ACT PROVIDING FOR FILING OF CERTAIN WATER RIGHTS CLAIMS; CREATING A DEADLINE FOR FILING THESE CLAIMS; PROVIDING FOR A SUPPLEMENTAL PRELIMINARY DECREE; SETTING FILING FEES; AMENDING SECTIONS 3-7-212, 85-2-221, 85-2-222, 85-2-225, 85-2-231, 85-2-232, 85-2-233, AND 85-2-234, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-7-212, MCA, is amended to read:

"3-7-212. Enforcement of decrees. The district court having jurisdiction may enforce the provisions of a final decree. In the absence of any final decree having been issued, the district court having jurisdiction may enforce the provisions of a temporary preliminary decree, ~~or preliminary decree, or supplemental preliminary decree~~ entered under 85-2-231, as modified by a water judge after objections and hearings."

Section 2. Section 85-2-221, MCA, is amended to read:

"85-2-221. Filing of claim of existing water right – filing late claim.

(1) A person claiming an existing right, unless ~~exempted provided for~~ under 85-2-222 or unless an earlier filing date is ordered as provided in 85-2-212, shall file with the department no later than June 30, 1983, a statement of claim for each water right asserted on a form provided by the department.

(2) The department shall file a copy of each statement of claim with the clerk of the district court for the judicial district in which the diversion is made or, if there is a claimed right with no diversion, the department shall file a copy of the statement of claim with the clerk of the district court of the judicial district in which the use occurs.

(3) Subject to certain terms and conditions, the legislature intends to provide for the remission of the forfeiture of existing rights to the use of water caused by the failure to comply with subsection (1). Accordingly, with respect only to a basin that has not been closed to further appropriation pursuant to a compact ratified by the legislature under part 7 of this chapter prior to July 1, 1993, a claim of an existing water right not filed with the department on or before April 30, 1982, may be filed with the department on or before July 1, 1996, on forms provided by the department. This section is not intended to prevent the filing of a late claim in addition to a claim of an existing water

right filed on or before April 30, 1982, if and to the extent that the additional right claimed is not the same as the right that was the subject of a previous claim and is not an abandoned right. Claims must be physically submitted to the department or sent by United States mail, postmarked on or before the deadline set forth in this subsection, in order to be considered timely. The claims are then subject to adjudication by the district courts as any other claim of existing right. The claimant is then subject to all rights and obligations of any other party, except that:

(a) a late claim must be incorporated into the adjudication, subject to all proceedings that have taken place prior to the date of filing;

(b) the person filing a late claim may request that a decree previously entered be reopened or may object to matters previously determined on the merits by the water court only to the extent that the request or objection is otherwise authorized by law and is based on a claim of water right filed on or before April 30, 1982;

(c) a person filing a late claim does not have the right or standing to object to any water rights compact reached in accordance with part 7 of this chapter that is ratified by the legislature prior to July 1, 1993, except to the extent that right or standing to object exists based on a claim of water right filed on or before April 30, 1982, or to claim protection for the right represented in the late claim under any provision of such a compact that subordinates the use of a water right recognized in the compact to a right recognized under state law;

(d) if the water judge, following objection under 85-2-233, finds that the right represented in the late claim was the subject of a prior order or decree by the water judge or is otherwise without merit, the water judge shall award costs and reasonable attorney fees to the person or persons filing the objection;

(e) a right represented in a late claim is subordinate to all federal and Indian reserved water rights established by compact or decree under this chapter;

(f) unless a late claim either was placed in the United States mail and postmarked on or before April 30, 1982, or, if there is no evidence of the date of mailing, there is evidence of execution on or before April 30, 1982, and actual receipt by the department on or before May 7, 1982, the right represented in the claim is, in addition, subordinate to:

(i) rights represented in all valid, timely filed claims; and

(ii) rights represented in a permit or reservation of water issued under this chapter if and to the extent that the person holding the permit or reservation files an objection under this part and proves that the person holding the permit or reservation reasonably relied to the detriment of the person holding the permit or reservation upon the failure of the claimant to file a claim on or before April 30, 1982.

(4) The department and the district courts may not accept any statements of claim physically submitted or postmarked after July 1, 1996, and shall notify a person who files a claim after July 1, 1996, that the claim will not be accepted."

Section 3. Section 85-2-222, MCA, is amended to read:

"85-2-222. Exemptions—petition for determination Definition — filing process — notice. (1) *Claims As used in this section, "exempt right" means those claims for existing rights for livestock and individual uses as opposed to municipal domestic uses based upon instream flow or ground water sources and claims for rights in the Powder River basin included in a declaration filed pursuant to the order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, or under sections*

3 and 4 of Chapter 485, Laws of 1975; are. *An exempt right is exempt from the filing requirements of 85-2-221(1).*

~~(2) The owner of an existing right exempt from filing under this section who did not voluntarily file a claim may request a judicial determination from the water court of the existing water right at least 90 days prior to issuance of a final decree pursuant to 85-2-234 or upon the reopening of a final decree pursuant to 85-2-237, whichever occurs later.~~

~~(3) To request a judicial determination of an existing right exempt from filing, the owner shall:~~

~~(a)(2) file a petition in the water court. A person claiming an exempt right:~~

~~(a) may file with the department no later than June 30, 2019, a statement of claim for each water right asserted and pay a filing fee, including the cost of examination by the department under 85-2-243;~~

~~(b) shall submit information required by 85-2-224(1) and (2) on a form provided by the department; and~~

~~(c) shall pay the fees pursuant to 85-2-225; and~~

~~(c) provide and pay for the notice required by 85-2-233(6).~~

~~(4)(3) A claim of an existing exempt right undergoing judicial determination pursuant to this section constitutes prima facie proof of its content.~~

~~(5)(4) The provisions of 85-2-233, 85-2-243, and 85-2-248, as well as supreme court examination rules, apply to petitions for judicial determination any statement of claim of an exempt right filed under this section, except that the department may not resolve issue remarks.~~

~~(6)(5) Failure to file a claim for an existing exempt right exempt under this section or failure to request a judicial determination for an existing right exempt under this section:~~

~~(a) does not result in the forfeiture of an existing water right; and~~

~~(b) subordinates the existing right to all other water rights except those that are exempt from this section and exempt rights for which there has been neither a claim has not been filed nor a judicial determination sought.~~

~~(6) Notice of the filing deadline provided in subsection (2) must be published by the department once a week for 2 consecutive weeks in a daily newspaper of general county circulation. The notice must be clearly posted in each county courthouse. The department shall send to the last-known address of each unique property owner a written notice of the filing deadline and a claim form at least once by July 1, 2017.~~

~~(7) The department may not accept any statements of claim submitted or postmarked after June 30, 2019. The department shall notify a person who files a claim after June 30, 2019, that the person's claim will not be accepted.~~

~~(8) All fees collected under this section must be deposited in the account established under 85-2-280."~~

Section 4. Section 85-2-225, MCA, is amended to read:

"85-2-225. Filing fee – processing fee for remitted claims. (1) Each claim filed under 85-2-221 or 85-2-222 must be accompanied by a filing fee in the amount of \$40, subject to the following exceptions:

(a) the total filing fees for all claims filed by one person in any one water court division may not exceed \$480; and

(b) a filing fee is not required to accompany a claim of an existing right that is included in a decree of a court in the state of Montana and that is accompanied by a copy of that decree or pertinent portion of the decree.

(2) A claim that is exempt from the filing requirements of 85-2-221(1) but that is voluntarily filed must be accompanied by a filing fee in the amount of \$40. Exempt claims for a single development with several uses if filed simultaneously may be accompanied by a filing fee in the amount of \$40.

(3) (a) In addition to the filing fee set forth in subsection (1), each statement of claim filed under 85-2-221(3) must be accompanied by a processing fee in the amount of \$150, which must be deposited in the general fund.

(b) The water judge shall assess against the late claimant all reasonable administrative costs and expenses that may be incurred by the court due to the filing of the late claim and the consideration of the objection, and the assessment must be deposited in the general fund.

(4) *Each claim filed under 85-2-222 must be accompanied by a filing fee in the amount of \$130, except that:*

(a) *the total filing fees for all claims under 85-2-222 filed by one person in any one water court division may not exceed \$1,560; and*

(b) *a filing fee is not required to accompany a claim of an existing right that is included in a decree of a court in the state of Montana and that is accompanied by a copy of that decree or pertinent portion of the decree."*

Section 5. Section 85-2-231, MCA, is amended to read:

"85-2-231. Temporary preliminary decree, and preliminary decree, and supplemental preliminary decree. (1) A water judge may issue a temporary preliminary decree prior to the issuance of a preliminary decree if the temporary preliminary decree is necessary for the orderly adjudication or administration of water rights.

(2) (a) The water judge shall issue a preliminary decree. The preliminary decree must be based on:

(i) the statements of claim before the water judge, *including those claims filed pursuant to 85-2-222 for a preliminary decree issued after June 30, 2019;*

(ii) the data submitted by the department;

(iii) the contents of compacts approved by the Montana legislature and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights; and

(iv) any additional data obtained by the water judge.

(b) The preliminary decree must be issued within 90 days after the close of the special filing period set out in 85-2-702(3) or as soon after the close of that period as is reasonably feasible.

(c) *In a basin in which a water judge has issued a preliminary decree prior to July 1, 2019, the water judge shall issue a supplemental preliminary decree, containing only those claims for exempt rights, as defined in 85-2-222, filed between the date of issuance of the preliminary decree and the filing deadline provided for in 85-2-222 and for which notice has not been provided under 85-2-233(6).*

(e)(d) The water judge may issue an interlocutory decree if an interlocutory decree is otherwise necessary for the orderly administration of water rights.

(3) A temporary preliminary decree may be issued for any hydrologically interrelated portion of a water division, including but not limited to a basin, subbasin, drainage, subdrainage, stream, or single source of supply of water, or any claim or group of claims at a time different from the issuance of other temporary preliminary decrees.

(4) The temporary preliminary decree, ~~or~~ preliminary decree, or supplemental preliminary decree must contain the information and make the determinations, findings, and conclusions required for the final decree under 85-2-234.

(5) If the water judge is satisfied that the report of the water master meets the requirements for the preliminary decree and is satisfied with the conclusions contained in the report, the water judge shall adopt the report as the preliminary decree. If the water judge is not satisfied, the water judge may

recommit the report to the master with instructions or modify the report and issue the preliminary decree.

(6) The department shall examine claims in basins that were verified rather than examined as ordered by the water court. The objection and hearing provisions of Title 85, chapter 2, part 2, apply to these claims. (Subsection (6) terminates June 30, 2028--sec. 10, Ch. 269, L. 2015.)”

Section 6. Section 85-2-232, MCA, is amended to read:

“85-2-232. Availability of temporary preliminary decree, or preliminary decree, or supplemental preliminary decree. (1) (a) The water judge shall send to the department a copy of a temporary preliminary decree, *or* preliminary decree, *or supplemental preliminary decree* issued for a basin.

(b) The water judge shall serve by mail a notice of availability of the temporary preliminary decree, *or* preliminary decree, *or supplemental preliminary decree* to each person who has filed a claim of existing right within the decreed basin or to that person’s successor as documented in the department’s records.

(c) The water judge shall also serve by mail a notice of availability of the temporary preliminary decree, *or* preliminary decree, *or supplemental preliminary decree* to the purchaser under contract for deed, as defined in 70-20-115, of property in connection with which a claim of existing right has been filed within the decreed basin.

(d) In the Powder River basin, the water judge shall serve by mail a notice of availability of the temporary preliminary decree, *or* preliminary decree, *or supplemental preliminary decree* to each person or to that person’s successor as documented in the department’s records, who has filed a declaration of an existing right.

(e) The water judge shall enclose with a notice required under subsections (1)(b) through (1)(d) an abstract of the disposition of the claimed or declared existing right of a person identified in this section or that person’s successor as documented in the department’s records.

(f) The notice of availability required under this section must also be served upon:

(i) those issued or having applied for and not having been denied a permit to beneficially use water within the decreed basin pursuant to Title 85, chapter 2, part 3;

(ii) those granted a reservation within the decreed basin pursuant to 85-2-316; or

(iii) other interested persons who request service of the notice from the water judge.

(g) When the water court provides notice to claimants of the opportunity to object, it shall include information explaining the right to appeal a water court decision as provided in 85-2-235.

(2) The clerk or person designated by the water judge to mail the notice shall make a general certificate of mailing certifying that a copy of the notice has been placed in the United States mail, postage prepaid, addressed to each party required to be served notice of the temporary preliminary decree or preliminary decree. The certificate is conclusive evidence of legal notice of entry of decree.

(3) Notice of the availability of a preliminary decree *or a supplemental preliminary decree* must also be published at least once each week for 3 consecutive weeks in at least three newspapers of general circulation that cover the water division or divisions in which the decreed basin is located. This notice must be provided before the final decree for the basin is issued.

(4) A person may obtain a copy of the temporary preliminary decree, ~~or~~ preliminary decree, *or supplemental preliminary decree* upon payment of a fee of \$20 or the cost of printing, whichever is greater, to the water judge. The fee must be deposited in the state general fund.”

Section 7. Section 85-2-233, MCA, is amended to read:

“85-2-233. Hearing on decrees or petition – procedure. (1) (a) For good cause shown and subject to the provisions of subsection (9), a hearing must be held before the water judge on any objection to a temporary preliminary decree, a preliminary decree, or a ~~petition for judicial determination under 85-2-222~~ *by supplemental preliminary decree* by:

- (i) the department;
 - (ii) a person named in the temporary preliminary decree, ~~or~~ preliminary decree, *or supplemental preliminary decree*;
 - (iii) any person within the basin entitled to receive notice under 85-2-232(1);
- or

(iv) any other person who claims rights to the use of water from sources in other basins that are hydrologically connected to the sources within the decreed basin and who would be entitled to receive notice under 85-2-232 if the claim or claims were from sources within the decreed basin.

(b) For the purposes of this subsection (1), “good cause shown” means a written statement showing that a person has an ownership, leasehold, economic, or clearly demonstrated particularized interest in an existing water right, permit, certificate, state water reservation under 85-2-316, or right to receive water through an irrigation project and that the person’s interest has been affected by the decree.

(c) A person does not waive the right to object to a preliminary decree by failing to object to a temporary preliminary decree issued before March 28, 1997. However, a person may not raise an objection to a matter in a preliminary decree if that person was a party to the matter when the matter was previously litigated and resolved as the result of an objection raised in a temporary preliminary decree unless the objection is allowed for any of the following reasons:

- (i) mistake, inadvertence, surprise, or excusable neglect;
- (ii) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), Montana Rules of Civil Procedure;

- (iii) fraud, misrepresentation, or other misconduct of an adverse party;
- (iv) the judgment is void; or

- (v) any other reason justifying relief from the operation of the judgment.

(d) After March 28, 1997, a person may not raise an objection or counterobjection to a matter contained in a subsequent decree issued under this part if the matter was contained in a prior decree issued under this part for which there was an objection and counterobjection period unless the objection is allowed for any of the following reasons:

- (i) mistake, inadvertence, surprise, or excusable neglect;
- (ii) newly discovered evidence that by due diligence could not have been discovered at the close of the objection period set forth in subsection (2);

- (iii) fraud, misrepresentation, or other misconduct of an adverse party;

- (iv) the temporary preliminary decree is void; or

(v) any other reason justifying relief from the operation of the prior decree issued under this part. The fact that a prior owner of a water right did not object or counterobject at a prior decree stage may not be a basis for a subsequent owner of the water right to object or counterobject absent a finding that one of the provisions in this subsection (1)(d) applies.

(2) Objections must be filed with the water judge within 180 days after entry of the temporary preliminary decree, ~~or~~ preliminary decree, *or supplemental preliminary decree*. The water judge may, for good cause shown, extend this time limit up to two additional 90-day periods if application for an extension is made prior to expiration of the original 180-day period or any extension of it.

(3) Upon expiration of the time for filing objections under subsection (2), the water judge shall notify each party whose claim received an objection that an objection was filed. The notice must set forth the name of each objector and must allow an additional 60 days for the party whose claim received an objection to file a counterobjection to the claim or claims of the objector. Counterobjections must be limited to those claims that are included within the particular decree issued by the court.

(4) Objections and counterobjections must specify the paragraphs and pages containing the findings and conclusions to which objection is made. The request must state the specific grounds and evidence on which the objections are based.

(5) (a) Upon expiration of the time for filing counterobjections under subsection (3), the water judge shall notify each party named in the temporary preliminary decree, ~~or~~ preliminary decree, *or supplemental preliminary decree* or that person's successor as documented in the department records and shall notify the attorney general that objections and counterobjections have been filed. The water judge shall fix a day when all parties who wish to participate in future proceedings are required to appear or file a statement. The water judge shall then set a date for a hearing. The water judge may conduct individual or consolidated hearings. A hearing must be conducted in the same manner as for other civil actions. At the order of the water judge, a hearing may be conducted by the water master, who shall prepare a report of the hearing as provided in Rule 53(e), Montana Rules of Civil Procedure.

(b) In conducting hearings pursuant to this chapter, a water judge may require the parties to participate in settlement conferences or may assign the matter to a mediator. Any settlement reached by the parties is subject to review and approval by a water judge.

(6) (a) After the issuance of a temporary preliminary decree or preliminary decree, notice must be published once a week for 3 consecutive weeks in two newspapers of general circulation in the basin where the decree was issued for:

(i) a motion to amend a statement of claim that may adversely affect other water rights; *or*

(ii) a motion to amend a timely objection that may adversely affect other water rights; ~~or~~

~~(iii) a petition for judicial determination as provided for in 85-2-222.~~

(b) The notice must specify that any response or objection to the proposed amendment must be filed within 45 days of the date of the last notice.

(c) The water judge may order any additional notice of the motion as the water judge considers necessary.

(d) The costs of the notice required pursuant to this subsection must be borne by the moving party.

(7) Failure to object under subsection (1) to a compact negotiated and ratified under 85-2-702 or 85-2-703 bars any subsequent cause of action in the water court.

(8) If the court sustains an objection to a compact, it may declare the compact void. The agency of the United States, the tribe, or the United States on behalf of the tribe party to the compact is permitted 6 months after the court's determination to file a statement of claim, as provided in 85-2-224, and the court shall issue a new preliminary decree in accordance with

85-2-231. However, any party to a compact declared void may appeal from that determination in accordance with those procedures applicable to 85-2-235, and the filing of a notice of appeal stays the period for filing a statement of claim as required under this subsection.

(9) Upon petition by a claimant, the water court may grant a motion for dismissal to an objection to a temporary preliminary or preliminary decree if the objection pertains to an element of a water right that was previously decreed and if dismissal is consistent with common-law principles of issue and claim preclusion.

(10) The provisions of subsection (9) do not apply to issues arising after entry of the previous decree, including but not limited to the issues of abandonment, expansion of the water right, and reasonable diligence.

(11) All issue remarks, as defined in 85-2-250, must be finally resolved before the issuance of a final decree.”

Section 8. Section 85-2-234, MCA, is amended to read:

“85-2-234. Final decree. (1) The water judge shall, on the basis of the preliminary decree *and any supplemental preliminary decree*, on the basis of any hearing that may have been held, and on final resolution of all issue remarks, as defined in 85-2-250, enter a final decree affirming or modifying the preliminary decree.

(2) The terms of a compact negotiated and ratified under 85-2-702 must be included in the final decree without alteration unless an objection is sustained pursuant to 85-2-233. However, the court may not alter or amend any of the terms of a compact except with the prior written consent of the parties in accordance with applicable law.

(3) The final decree must establish the existing rights and priorities within the water judge’s jurisdiction of persons who have filed a claim in accordance with 85-2-221 *and 85-2-222*, of persons required to file a declaration of existing rights in the Powder River basin pursuant to an order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, ~~of any judicial determinations made pursuant to 85-2-222~~; and of any federal agency or Indian tribe possessing water rights arising under federal law, required by 85-2-702 to file claims.

(4) The final decree must establish, in a form determined to be appropriate by the water judge, one or more tabulations or lists of all water rights and their relative priorities.

(5) The final decree must state the findings of fact, along with any conclusions of law, upon which the existing rights and priorities of each person, federal agency, and Indian tribe named in the decree are based.

(6) For each person who is found to have an existing right arising under the laws of the state of Montana, the final decree must state:

- (a) the name and post-office address of the owner of the right;
- (b) the amount of water included in the right, as follows:
 - (i) by flow rate for direct flow rights, such as irrigation rights;
 - (ii) by volume for rights, such as stockpond and reservoir storage rights, and for rights that are not susceptible to measurement by flow rate; or
 - (iii) by flow rate and volume for rights that a water judge determines require both volume and flow rate to adequately administer the right;
- (c) the date of priority of the right;
- (d) the purpose for which the water included in the right is used;
- (e) the place of use and a description of the land, if any, to which the right is appurtenant;
- (f) the source of the water included in the right;
- (g) the place and means of diversion;

(h) the inclusive dates during which the water is used each year;
(i) any other information necessary to fully define the nature and extent of the right.

(7) For each person, tribe, or federal agency possessing water rights arising under the laws of the United States, the final decree must state:

- (a) the name and mailing address of the holder of the right;
- (b) the source or sources of water included in the right;
- (c) the quantity of water included in the right;
- (d) the date of priority of the right;
- (e) the purpose for which the water included in the right is currently used, if at all;
- (f) the place of use and a description of the land, if any, to which the right is appurtenant;
- (g) the place and means of diversion, if any; and
- (h) any other information necessary to fully define the nature and extent of the right, including the terms of any compacts negotiated and ratified under 85-2-702.

(8) Clerical mistakes in a final decree may be corrected at any time on the initiative of the water judge or on the petition of any person who possesses a water right. The water judge shall order the notice of a correction proceeding that the judge determines to be appropriate to advise all persons who may be affected by the correction. An order of the water judge making or denying a clerical correction is subject to appellate review.”

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to a statement of claim for an exempt right filed on or after [the effective date of this act].

Approved May 7, 2017

CHAPTER NO. 339

[HB 131]

AN ACT REVISING AGRICULTURAL REPORTING AND FEE REQUIREMENTS RELATING TO PRODUCE, AGRICULTURAL SEED, COMMERCIAL FEED, AND COMMERCIAL FERTILIZERS; AMENDING SECTIONS 80-3-314, 80-5-131, 80-9-206, 80-10-101, 80-10-201, 80-10-202, 80-10-203, 80-10-204, 80-10-207, AND 80-10-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-3-314, MCA, is amended to read:

“80-3-314. Reporting requirements – assessment fees – exceptions.

(1) Produce sold or distributed in this state must be reported on forms approved by the department and must be assessed a fee for each produce unit or equivalent poundage. The fee amount may be adjusted by rule but must be at least 3 cents and not more than 7 cents for each produce unit.

(2) The produce dealer who first distributes produce in this state or a grower who retails Montana-grown produce with gross annual sales exceeding \$25,000 shall pay the produce assessment fee established in subsection (1). However, any produce dealer in possession of the produce may be held responsible for payment of the fee unless the grower has paid for a produce dealer license or has made available to the produce dealer a written form provided by the department stating that the assessment fees are being paid.

(3) The report and fees are due ~~on or before the 30th day of the month following each calendar quarter~~ *30 days after the last day of the reporting period. The reporting periods end June 30 and December 31.*

(4) Payment of the produce assessment fee is not required on produce that is:

(a) grown and retailed in Montana by the grower if annual gross retail sales by the grower do not exceed \$25,000;

(b) grown in this state, not packaged for market, and sold for resale by the grower;

(c) in the case of vegetative seed potato products, intended or used for planting purposes; or

(d) purchased from or distributed by a produce dealer licensed under 80-3-321 if the produce has been reported and the assessment fee has been paid.

(5) Fees must be paid only if they total more than \$5 in a reporting period."

Section 2. Section 80-5-131, MCA, is amended to read:

"80-5-131. Assessment on sales into Montana -- reporting -- rulemaking. (1) Except as provided in this subsection, seed labelers located outside Montana who sell agricultural seed in Montana shall report those sales and pay a fee of 20 cents per \$100 in gross annual sales of agricultural seed. The department may by rule adjust the assessment fee to maintain adequate funding for the administration of this part. The assessment fee may not be less than 20 cents per \$100 or more than 30 cents per \$100 in gross annual sales of agricultural seed. *Fees must be paid only if they total more than \$5 in a reporting period.*

(2) The department shall by rule establish:

(a) reporting requirements, including persons who shall report, the form of reports, *the reporting period*, and the scope of information to be reported;

(b) the due date applicable to reports; and

(c) penalty provisions applicable to reports that are not received by the due date, not to exceed ~~\$10~~ \$25 or 10% of the assessment due, whichever is greater.

(3) Failure to submit the report as required or to pay the assessment in full constitutes a violation subject to the penalty provisions of this chapter."

Section 3. Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee must be paid on all commercial feeds, including customer formula feeds, except pet foods and specialty pet foods, distributed in this state as follows:

(a) The feed manufacturer has primary responsibility for paying inspection fees. However, the distributor is responsible for inspection fees if the manufacturer has not paid them.

(b) Except as provided in this subsection (1)(b), the inspection fee is 18 cents a ton. Inspection fees must be paid on each commercial feed, including customer formula feeds and feed ingredients that are defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However, premixes prepared and used within a feed plant or transferred from one plant to another within the same organization are exempt. The department may by rule adjust the inspection fee to maintain adequate funding for the administration of this part. The fee may not be less than 18 cents a ton or more than 25 cents a ton.

(c) A person producing a commercial feed with a feed mixing plant at a feed lot or a poultry, swine, or dairy operation may not be required to pay inspection fees on the commercial feeds produced and used in the feeding operation at the site, but is responsible for any unpaid inspection fees on commercial feed

purchased by that person and on any commercial feed that person produces and distributes other than in that person's feeding operations at the site.

(d) Fees must be paid only if they total more than \$5 in an annual reporting period.

(2) Each person who holds a license as required in 80-9-201(1) shall:

(a) file, not later than January 31 of each year, an annual statement setting forth the number of tons of commercial feeds distributed in this state during the preceding calendar year and, upon filing the statement, shall pay the inspection fee. Inspection fees that have not been remitted to the department on or before January 31 have a penalty fee of 10% or a minimum of \$10-\$25, whichever is more, added to the amount due. The assessment of this penalty fee does not prevent the department from taking other action as provided in this chapter.

(b) keep those records that are necessary or are required by the department to indicate accurately the tonnage of commercial feed distributed in this state. The department may examine the records to verify statements of tonnage.

(c) make accurate and prompt reports as required. Failure to do so is sufficient cause for the department to cancel or refuse to reissue a license."

Section 4. Section 80-10-101, MCA, is amended to read:

"80-10-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

(2) "Blending" means the physical mixing or combining, including mixing through simultaneous or sequential application, of any combination of materials to produce a uniform mixture of:

(a) one or more fertilizer materials with one or more filler materials; or

(b) two or more fertilizer materials.

(3) (a) "Commercial fertilizer" includes any substance containing one or more recognized plant nutrients that is used for its plant nutrient content and that is designed for use or claimed to have value in promoting plant growth, yield, or quality of the crop.

(b) Commercial fertilizer includes the following types of fertilizer:

(i) Bulk fertilizer is commercial fertilizer, dry or liquid, that is distributed in nonpackage form or in containers of greater than 1,000 pounds.

(ii) Fertilizer material is commercial fertilizer that either:

(A) contains important quantities of not more than one of the primary plant nutrients;

(B) has 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(C) is derived from a plant or animal residue or byproduct or a natural material deposit that has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification and concentration.

(iii) Mixed fertilizer is commercial fertilizer, dry or liquid, that contains any combination or mixture of fertilizer materials.

(iv) Specialty fertilizer is commercial fertilizer, dry or liquid, that is distributed primarily for nonfarm use and includes commercial fertilizers used for research or experimental purposes.

(4) "Custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet a specific consumer request prior to blending.

(5) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed. Deficiency may result from a lack of nutrient ingredients or a lack of uniformity.

(6) "Distribute" means to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil amendments.

~~(7) "Distributor" means a person who distributes.~~

(8)(7) "Grade" means the percentages of total nitrogen, available phosphate, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. Specialty fertilizers may be guaranteed in fractional units of less than 1% of total nitrogen, available phosphate, and soluble potash. Fertilizer materials, bonemeal, manures, and similar materials may be guaranteed in fractional units.

(9)(8) "Guaranteed analysis" means the minimum percentage of plant nutrients as described in 80-10-102.

(10)(9) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

(11)(10) "Label" means the display of all written, printed, or graphic matter on a container or a statement accompanying a fertilizer or soil amendment.

(12)(11) "Labeling" means all written, printed, or graphic matter on or accompanying any fertilizer or soil amendment and advertisements, brochures, websites, posters, and television and radio announcements used in promoting the sale of a fertilizer or soil amendment.

(13)(12) "Licensee" means a person licensed under 80-10-202.

(14)(13) "Local legislation" means but is not limited to any ordinance, motion, resolution, amendment, regulation, or rule adopted by a political subdivision.

(15)(14) "Manufacture" means the formulation, mixing, blending, or further processing of commercial fertilizers or soil amendments.

(16)(15) "Manufacturer" means a person who manufactures commercial fertilizer or soil amendments.

(17)(16) "Official sample" means any sample of commercial fertilizer taken by the department and designated as official by the department.

(18)(17) "Other ingredients" means nonsoil amending ingredients present in soil amendments.

(19)(18) "Percent or percentage" means the percentage by weight.

(20)(19) "Person" means an individual, partnership, association, firm, or corporation.

(21)(20) "Political subdivision" means any local government entity, including but not limited to any city, county, town, or municipal corporation and any other corporate or political body that is responsible for government activities in a geographic area smaller than the state.

(22)(21) "Primary nutrient" means the total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O).

~~(23) "Quarterly" means the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.~~

(24)(22) "Registrant" means the person who registers a commercial fertilizer or a soil amendment.

(25)(23) (a) "Soil amendment" means any substance that is intended to improve the physical or chemical characteristics of soil.

(b) The term does not include commercial fertilizers, unmanipulated animal or vegetable manures, pesticides, and other ingredients that are exempted from the definition by rule.

(26)(24) "Supplier" means a person who distributes fertilizers or soil amendments into Montana.

(27)(25) "Ton" means a net weight of 2,000 pounds.

(28)(26) "Unmanipulated animal or vegetable manures" means substances composed primarily of excreta, plant remains, or mixtures of those substances that have not been processed in any manner, including the addition of plant nutrients, drying, grinding, and other means."

Section 5. Section 80-10-201, MCA, is amended to read:

"80-10-201. Registration. (1) (a) Each brand and grade of fertilizer and each soil amendment except unmanipulated animal or vegetable manures must be registered by the manufacturer or the supplier on behalf of the manufacturer before distribution in this state. The application for registration must be submitted to the department on a form approved by the department and must be accompanied by:

(i) a nonrefundable fee of \$20 per grade for each fertilizer and for each soil amendment;

(ii) a nonrefundable fee of \$35 for each specialty fertilizer; and

(iii) a fee of \$10 for each commercial and specialty fertilizer to be used for ground water protection, as required in 80-15-302(3).

(b) Upon approval, the department shall furnish a copy of the registration to the applicant. All registrations expire on December 31 of each year.

(2) (a) The application for registration must include:

(i) the brand and grade;

(ii) the guaranteed analysis;

(iii) the source of each plant food element guaranteed;

(iv) the name and address of the registrant;

(v) the net weight for packaged products;

(vi) an electronic copy of each label and labeling when requested by the department; and

(vii) analytical information on nutrient ingredients and nonnutrient ingredients as required by rule.

(b) The department shall require the applicant to furnish replicated data, performed by a reputable investigator whose work is recognized as acceptable by the director of the agricultural experiment station or the director's designee, verifying any claims for effectiveness or agricultural value of any fertilizer or soil amendment product that is not generally recognized as having the values claimed at the use rates recommended.

(3) A distributor or licensee is not required to register any brand and grade of commercial fertilizer that is already registered under this section by another person.

(4) Registration is not required for custom blends resulting from blending of registered products.

(5) A manufacturer or supplier may not register a product until full payment of the assessment fees provided for in 80-10-103 and 80-10-207 has been received by the department for each product."

Section 6. Section 80-10-202, MCA, is amended to read:

"80-10-202. License required. A person may not distribute in this state any type of fertilizer or soil amendment, except unmanipulated animal or vegetable manures or specialty fertilizer, until a license to distribute has been obtained from the department for each facility distributing into this state and for each handling facility in this state. All new applicants ~~or those failing to renew their licenses by January 1 of each year~~ shall pay a nonrefundable \$75 fee for each license. All licenses expire on December 31 of each year and are subject to the following:

- (1) The application for license must be on forms approved by the department.
 (2) License renewals received by the department prior to January 1 of each year must be accompanied by a fee of \$50 for each license.

(3) *The department may collect a \$25 late penalty for a license renewal received after December 31.*

~~(3)~~(4) Before distributing any commercial fertilizer or soil amendment into the state, a person must be licensed as a supplier.”

Section 7. Section 80-10-203, MCA, is amended to read:

“80-10-203. Fertilizer to be uniform. (1) The plant nutrient content of every brand and grade of commercial fertilizer shall remain uniform for the period of registration.

(2) The manufacturer or ~~distributor~~ licensee shall at all times deliver a uniform grade of fertilizer or soil amendment. When two or more fertilizers are delivered in the same load, they shall be thoroughly and uniformly mixed unless they are in separate compartments.”

Section 8. Section 80-10-204, MCA, is amended to read:

“80-10-204. Labeling. (1) All commercial fertilizer distributed in this state in containers must have affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (a) net weight;
- (b) name and address of the registrant or guarantor;
- (c) brand;
- (d) grade, except if no primary nutrients are claimed;
- (e) guaranteed analysis;
- (f) directions for use of the fertilizer by the end user; and
- (g) other requirements as established by rule.

(2) Any bin in the state in which commercial fertilizer is stored for distribution must have affixed to or printed on it a label setting forth in clearly legible and conspicuous form:

- (a) the guaranteed analysis of the product in the bin; and
- (b) other requirements established by rule.

(3) All commercial fertilizer delivered in this state in bulk, whether a manufactured grade or blended grade, must be accompanied by a clearly legible document that must be supplied to the purchaser at the time of delivery. The document must show:

- (a) net weight;
- (b) name and address of the ~~distributor~~ licensee, registrant, or guarantor;
- (c) guaranteed analysis or, on custom-blended fertilizer, the net weight and guaranteed analysis of each ingredient added; and
- (d) other requirements as established by rule.

(4) (a) When distributed in containers, soil amendments must have a label affixed to the container setting forth in clearly legible and conspicuous form the following information:

- (i) net weight;
- (ii) name and address of the registrant or guarantor;
- (iii) brand and product name;
- (iv) guaranteed analysis;
- (v) soil amending ingredients listed in the following form:
 Name of ingredient (identify and list all) %
 Total other ingredients %
- (vi) purpose of the product; and
- (vii) other requirements, such as particle size, as established by rule.

(b) In the case of bulk shipments of soil amendments, the information required in subsection (4)(a) must be in clearly legible written or printed form,

must accompany delivery, and must be supplied to the purchaser at the time of delivery.”

Section 9. Section 80-10-207, MCA, is amended to read:

“80-10-207. Fees. (1) (a) Each in-state manufacturer or out-of-state supplier shall pay to the department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and unmanipulated animal or vegetable manures. Sales to manufacturers or exchanges between manufacturers are exempt. The fees are as follows:

(i) The department may by rule adjust the inspection fee to maintain adequate funding for the administration of this part. The fee may not be less than 20 cents per ton or more than 25 cents per ton. A change in fee becomes effective on the first day of a reporting period. All in-state manufacturers and out-of-state suppliers of nonexempt products must be given notice of a change in fees before the effective date.

(ii) The department may by rule adjust the anhydrous ammonia inspection fee to maintain adequate funding for the administration and enforcement of part 5 of this chapter. The fee may not be less than 65 cents per ton or more than \$1.30 per ton. A change in fee becomes effective on the first day of a reporting period. All in-state manufacturers and out-of-state suppliers of anhydrous ammonia must be given notice of a change in fees before the effective date of the fee adjustment.

(iii) The assessment fee prescribed in 80-10-103 must be used to fund educational and experimental programs as provided in 80-10-103 through 80-10-106.

(b) If fertilizer material or soil amendment is added to fertilizer for which a fee has been paid under subsection (1)(a), a fee is due only on the fertilizer material or soil amendment for which a fee has not been paid.

(c) *Fees must be paid only if they total more than \$5 in a reporting period.*

(2) There must be paid to the department on all soil amendments distributed in this state an inspection fee of 10 cents per ton subject to the following provisions:

(a) sales to manufacturers or exchanges between ~~them~~ *them* are exempt; and

(b) when less than 50 tons of a registered soil amendment is sold in a quarterly reporting period, no payment is due.

~~(3) (a) (i) Each licensee who distributes a soil amendment or commercial fertilizer, except specialty fertilizer and unmanipulated animal or vegetable manures, to an unlicensed person in this state shall file with the department on forms approved by the department a semiannual statement for the periods ending June 30 and December 31 setting forth the number of net tons of each commercial fertilizer and soil amendment distributed in this state during the 6-month period. The report is due on or before the 30th day of the month following the close of each period. There are no fees associated with the semiannual report.~~

~~(ii)(3) (a) (i) Each licensee who distributes a soil amendment or commercial fertilizer, except specialty fertilizer and unmanipulated animal or vegetable manures, to an unlicensed person in this state shall file with the department on forms approved by the department a semiannual tonnage statement for the reporting periods ending June 30 and December 31. This tonnage statement must indicate the number of net tons of each commercial fertilizer and soil amendment distributed in this state during the 6-month period. The tonnage statement is due on or before the 30th day of the month following the close of each period 30 days after the last day of the reporting period. There are no fees associated with the semiannual tonnage statement.~~

(ii) Each in-state manufacturer and out-of-state supplier who distributes a soil amendment or commercial fertilizer in this state to a person regardless of license status, except specialty fertilizer and unmanipulated animal or vegetable manures, shall file with the department on forms approved by the department ~~a quarterly an inspection fee statement for each of the reporting periods ending June 30 and December 31. setting forth~~ *The inspection fee statement must indicate the number of net tons of each commercial fertilizer and soil amendment distributed in this state during the quarter reporting period and to whom it was distributed. The report is due on or before 30 days after the end of the quarterly last day of the reporting period. The in-state manufacturer or out-of-state supplier shall pay the fees set forth in subsection (1) at that time.*

(b) ~~If the tonnage report inspection fee statement required by subsection (3)(a)(ii) (3)(a) is not filed and the payment of fees is not made within 30 days after the end of the quarterly reporting period, a collection fee of 15% annual percentage rate late fee of 10% on the amount due but not less than \$10 \$25 must be assessed against the in-state manufacturer or out-of-state supplier; and the. The amount of fees due constitutes a debt and becomes the basis of a judgment against the in-state manufacturer or out-of-state supplier.~~

(4) Except as provided in subsection (5), all fees collected for licenses, registration, and inspection and money collected as penalties must be deposited in the state treasury to the credit of the state special revenue fund for the purpose of administering this chapter, including the cost of equipment and facilities and the cost of inspecting, analyzing, and examining commercial fertilizer and soil amendments manufactured or distributed in this state. Reserve funds may be invested by the department with interest credited to the state special revenue fund.

(5) All fees collected under subsection (1)(a)(ii) must be deposited in the state treasury to the credit of the state special revenue fund, anhydrous ammonia account, for the administration and enforcement of part 5 of this chapter and the rules adopted under part 5. The department may direct the board of investments to invest the funds collected under subsection (1)(a)(ii) pursuant to the provisions of 17-6-201. The income from the investment must be deposited in the anhydrous ammonia account in the state special revenue fund."

Section 10. Section 80-10-303, MCA, is amended to read:

"80-10-303. Violations -- enforcement proceedings -- judicial review. (1) If it appears from the examination of commercial fertilizer or from the inspection of an anhydrous ammonia facility that this chapter or the rules adopted under this chapter have been violated, the department shall give notice of the violations to the registrant, licensee, ~~distributor~~, or possessor from whom the sample was taken. A person notified must be given an opportunity to be heard under rules of the department. If it appears after a hearing, either in the presence or absence of the person notified, that this chapter or rules issued under this chapter have been violated, the department may certify the facts to the proper prosecuting attorney.

(2) A person who violates this chapter or the rules adopted under this chapter or who obstructs, prevents, or attempts to prevent the department from performing its duty may be fined not less than \$300 or more than \$500 for the first violation and not less than \$300 or more than \$1,000 for a subsequent violation. In all actions under this chapter involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis of the department is prima facie evidence of the composition.

(3) This chapter does not require the department to report for prosecution or for the beginning of seizure proceedings minor violations of this chapter when it believes that the public interest will be best served by a suitable notice of warning in writing.

(4) A prosecuting attorney to whom a violation is reported shall prosecute the violator in a court of competent jurisdiction without delay.

(5) The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law. The injunction must be issued without bond.

(6) If an in-state manufacturer or supplier fails to pay a fee required under 80-10-207, the manufacturer or supplier may be fined an amount up to \$1,000 or twice the fee that should have been paid, whichever is higher. If a supplier fails to obtain a license as required in ~~80-10-202(3)~~ 80-10-202, the supplier may be assessed a civil penalty of \$500 for each ~~quarter~~ reporting period that the supplier fails to be licensed, in addition to any other amounts owed to the state.

(7) If a person adversely affected by an act, order, or ruling made by the department under this chapter is not entitled to a hearing before the department to determine the person's rights, the person may within 45 days sue in the district court of any county where the alleged violation giving rise to the department's act, order, or ruling occurred for a new trial of the issues bearing upon the act, order, or ruling. After the trial the court may issue and enforce those orders, judgments, or decrees that it considers proper, just, and equitable."

Section 11. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2017

CHAPTER NO. 340

[HB 261]

AN ACT EXTENDING THE TERMINATION DATE OF THE STATUTORY APPROPRIATION FOR PER CAPITA AND PER SQUARE MILE FUNDING FOR PUBLIC LIBRARIES; AMENDING SECTION 5, CHAPTER 244, LAWS OF 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5, Chapter 244, Laws of 2013, is amended to read:

“Section 5. Termination. [This act] terminates July 1, 2017 2023.”

Section 2. Contingent voidness. (1) If the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2017 are less than \$2,213,000,000, the statutory appropriation in 22-1-327 for fiscal year 2018 is void.

(2) If the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2018 are less than \$2,360,000,000, the statutory appropriation in 22-1-327 for fiscal year 2019 is void.

Section 3. Effective date. [This act] is effective on passage and approval.
Approved May 7, 2017

CHAPTER NO. 341

[HB 424]

AN ACT RECOGNIZING SOURCE WATERSHEDS AS A WATER RESOURCE; CLARIFYING THAT SOIL AND RANGE HEALTH ARE VITAL TO RENEWABLE NATURAL RESOURCES; PROVIDING THAT SOURCE WATERSHEDS MAY BE CONSIDERED FOR THE MONTANA RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; CLARIFYING OBJECTIVES OF THE PROGRAM TO INCLUDE SOURCE WATERSHEDS; INCREASING AVAILABLE MATCHING FUNDS FOR GRANTS AND LOANS TO PRIVATE PARTIES; AND AMENDING SECTIONS 85-1-601, 85-1-602, AND 85-1-614, MCA.

WHEREAS, one of five key recommendations in the 2015 State Water Plan's "Water Supply and Demand" section is to use natural storage to benefit water supplies; and

WHEREAS, the maintenance and repair of source watersheds in Montana are essential to maintaining the reliability, quantity, timing, and quality of Montana's water supplies; and

WHEREAS, section 85-1-601(6), MCA, states that the renewable resource grant and loan program "supports, in part, the implementation...of the 'state water plan'" and that "the department shall give preference to projects that will implement state water plan priorities"; and

WHEREAS, because clean water delivered from source watersheds reduces the costs of treatment for drinking water, the health of source watersheds could be a cost benefit to the state's water supply.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-1-601, MCA, is amended to read:

"85-1-601. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana may enjoy the benefits of the state's water and other renewable resources, the state shall establish this long-term renewable resource grant and loan program providing financial and administrative assistance to private for-profit, private, nonprofit, local government, state government, and tribal government entities for renewable resource grant and loan projects.

(2) The purpose of the renewable resource grant and loan program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources and to invest in renewable natural resource projects that will preserve for the citizens of Montana the economic and other benefits of the state's natural heritage.

(3) The legislature recognizes the value of Montana's renewable resources; therefore, it is appropriate that a portion of the taxes and other revenue from nonrenewable resources be invested in the replacement of nonrenewable resources with the development of renewable resource projects that will continue to provide tax and other revenue and will preserve for the citizens the economic and other benefits of the state's natural heritage.

(4) The conservation, development, management, and preservation of water and other renewable resources are high priorities because a large portion

of Montana's present and future economy is based either directly or indirectly on the wise use of these resources.

(5) Developments supported by this part may not significantly diminish the quality of existing public resources, such as land, air, fish, wildlife, and recreation opportunities.

(6) This renewable resource grant and loan program supports, in part, the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan". In making funding recommendations for grants and loans, the department shall give preference to projects that will implement state water plan priorities if, in all other respects, the proposed projects are equal in public benefit and technical feasibility.

(7) *Source watersheds are an integral component of Montana's water resources. Source watersheds that provide the majority of the state's drinking and irrigated agricultural water are particularly important to maintaining the reliability, quantity, timing, and quality of Montana's environmental, drinking, and agricultural water supply. Because source watersheds have a critical role in enhancing water supply reliability, the maintenance and repair of source watersheds are eligible for the renewable resource grant and loan program.*

(8) *Soil and range health play a vital role in protecting and sustaining Montana's renewable natural resources by retaining water, soil, and nutrients in place on the landscape. Enhancing soil and range health will provide long-term benefits to Montana's water and other renewable resources and to the users, wildlife, and economies they support."*

Section 2. Section 85-1-602, MCA, is amended to read:

"85-1-602. Objectives. (1) The department shall administer a renewable resource grant and loan program to enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources. Either grants or loans may be provided to fund the following:

- (a) feasibility, design, research, and resource assessment studies;
- (b) preparation of construction, rehabilitation, or production plans; and
- (c) construction, rehabilitation, production, education, or other implementation efforts.

(2) Projects that may enhance renewable resources in Montana include but are not limited to:

- (a) development of natural resource-based recreation;
- (b) development of *natural*, offstream, and tributary storage;
- (c) improvement of water use efficiency, including development of new, efficient water systems, rehabilitation of older, less efficient water systems, and acquisition and installation of measuring devices required under 85-2-113; *monitoring*; and development of state, tribal, and federal water projects;

- (d) water-related projects that improve water quality, including livestock containment facility projects, *soil and range health projects, and the maintenance and repair of source watersheds*;

- (e) *water-related projects that improve water quantity, including streamflows and water storage in existing natural systems, such as riparian areas, flood plains, and wetlands*;

- (~~e~~)*f*) advancement of farming practices that reduce agricultural chemical use; and

- (~~f~~)*g*) projects that facilitate the use of alternative renewable energy sources, as defined in 15-6-225.

(3) The renewable resource grant and loan program is the key implementation portion of the state water plan and must be administered to

encourage grant and loan applications for projects designed to accomplish the objectives of the plan.

(4) A grant or loan may not be awarded to a project that affects source watersheds or soil and range health if the project would reduce, restrict, or prohibit any lawful access to the property that existed prior to the project's implementation. This subsection does not apply to access that is temporarily created, granted, or reduced due to project operations."

Section 3. Section 85-1-614, MCA, is amended to read:

"85-1-614. Limits on grants from natural resources projects state special revenue account. (1) The maximum grant awarded to a private person may not exceed the lesser of:

(a) 5% of the estimated total funds potentially available in the natural resources projects state special revenue account established in 15-38-302 for public and private grants in the biennium in which the grant will be made; or

(b) 25% 50% of the total project cost.

(2) This part does not limit the amount of grant funds that may be appropriated by the legislature to fund a state or local government project."

Approved May 7, 2017

CHAPTER NO. 342

[HB 434]

AN ACT CREATING THE MONTANA WILDLIFE HABITAT IMPROVEMENT ACT; ALLOWING THE USE OF FEDERAL FUNDS TO COMBAT NOXIOUS WEEDS AND RESTORE WILDLIFE HABITAT; ESTABLISHING A WILDLIFE HABITAT IMPROVEMENT ADVISORY COUNCIL; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, noxious weeds already encroach on wildlife habitat throughout Montana and are propagating at rising rates; and

WHEREAS, a noxious weed control program administered by the department of fish, wildlife, and parks will complement and enhance existing noxious weed control efforts; and

WHEREAS, the program would use federal funds to restore wildlife habitat for the benefit of the public; and

WHEREAS, wildlife habitat noxious weed management projects will enhance and steward habitat for the benefit of wildlife.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 8] may be cited as the "Montana Wildlife Habitat Improvement Act".

Section 2. Definitions. As used in [sections 1 through 8], unless the context indicates otherwise, the following definitions apply:

(1) "Council" means the wildlife habitat improvement advisory council established in [section 3].

(2) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(3) "Native plant" means a plant indigenous to the state of Montana.

(4) "Noxious weed" means a weed defined in 7-22-2101.

(5) "Noxious weed management" means an integrated weed management program for the containment, suppression, and, where possible, eradication of noxious weeds. The term includes a long-term management approach toward noxious weeds that includes but is not limited to hand-pulling, cultivation,

herbicide application, mechanical or biological control, prescribed grazing or burning, prevention, and revegetation.

Section 3. Wildlife habitat improvement advisory council – members. (1) There is a wildlife habitat improvement advisory council appointed by the director that ranks projects pursuant to [section 4] and advises the department on the administration of [sections 1 through 8]. The council consists of the following voting members:

- (a) the director of the department or a representative of the department;
- (b) a representative of a hunting organization in Montana;
- (c) a representative of a multiple-use recreation organization in Montana;
- (d) a representative of the timber industry in Montana;
- (e) a livestock producer or a representative of a livestock producer organization in Montana;
- (f) a farmer or a representative of a farming organization in Montana;
- (g) a commercial applicator as defined in 80-8-102;
- (h) a representative of biological research and control interests;
- (i) a representative of the Montana weed control association; and
- (j) two county representatives, one each from the western and eastern parts of the state, who may include a county commissioner, district weed board member, or weed district supervisor.

(2) Nonvoting members of the council include:

- (a) the state weed coordinator; and
- (b) one representative each from:
 - (i) the United States bureau of land management;
 - (ii) the United States forest service;
 - (iii) the United States bureau of reclamation;
 - (iv) the United States fish and wildlife service;
 - (v) the Montana department of natural resources and conservation; and
 - (vi) an Indian tribe as defined in 2-15-141.

Section 4. Wildlife habitat improvement projects – requirements – ranking. (1) Project proposals must:

- (a) address how projects would restore, rehabilitate, improve, or manage land as wildlife habitat through noxious weed management;
- (b) include a plan to remove noxious weeds or prevent them from propagating or taking hold in the project area;
- (c) include a commitment to match at least 25% of a grant in cash, goods, or services; and
- (d) include measurable objectives and a monitoring plan to allow the department to analyze how noxious weed management is restoring, rehabilitating, improving, or managing land as wildlife habitat.

(2) The council shall rank wildlife habitat improvement project proposals according to rules adopted by the department pursuant to [section 8] and make funding recommendations to the department.

(3) In ranking the proposals, the council must give preference to projects in wildlife habitat that include:

- (a) access for public hunting;
 - (b) multiple partners and landowners; and
 - (c) a commitment to match at least 25% of the final grant in cash.
- (4) Additional preference must be given to a project that proposes to:
- (a) address the primary spread of noxious weeds to adjacent areas of wildlife habitat with native plants;
 - (b) include a significant portion of ecologically important wildlife habitat that is in need of restoration;
 - (c) include a significant portion of a watershed; or

(d) maintain native plants after project completion.

Section 5. Account – deposits. (1) There is a wildlife habitat improvement account in the federal special revenue fund established in 17-2-102. Up to \$2 million annually in federal special revenue funds for wildlife purposes as appropriated by the legislature may be deposited in the account.

(2) The department may accept gifts, grants, contracts, or other funds designated for the purposes of [sections 1 through 8]. Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source intended to be used for the purposes of [sections 1 through 8] must be deposited as appropriate in the federal special revenue fund or in the state special revenue fund established in 17-2-102.

Section 6. Administration and expenditure of funds – cooperation with other entities. (1) (a) The department may expend funds deposited pursuant to [section 5] through grants or contracts to communities, noxious weed management districts, conservation districts, nonprofit organizations exempt from taxation under section 26 U.S.C. 501(c)(3), or other entities that it considers appropriate for wildlife habitat improvement projects.

(b) The department shall consider project recommendations from the council.

(c) The department may cooperate in and coordinate the planning and disbursement of these funds with federal, state, and local agencies responsible for the management of noxious weeds.

(2) A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program using one of the following methods, whichever is less:

(a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or

(b) appropriating an amount of not less than \$100,000 from any source.

(3) The department may expend money deposited pursuant to [section 5] to:

(a) restore, rehabilitate, improve, or manage areas of land as wildlife habitat by controlling noxious weeds;

(b) acquire goods and services that will help control noxious weeds in order to restore, rehabilitate, improve, or manage land as wildlife habitat;

(c) fund cost-share noxious weed management programs with local noxious weed management districts; or

(d) provide special grants to local noxious weed management districts to eradicate or contain significant noxious weeds newly introduced into the county that affect wildlife habitat.

(4) Expenditures allowed pursuant to subsection (3) are limited to:

(a) biological or mechanical control of noxious weeds;

(b) purchases and application of approved herbicides;

(c) seed purchases and application of seed; and

(d) grazing costs as a component of an overall integrated noxious weed management plan.

(5) The department may expend the funds deposited pursuant to [section 5] to pay costs incurred by the department for administering [sections 1 through 8] and providing support to the council, including but not limited to personal services costs, operating costs, and other administrative costs. After fiscal year 2019, administrative costs may not exceed 15% of the total amount expended pursuant to subsection (3).

Section 7. Reporting – evaluations. (1) A project sponsor shall:

(a) monitor and document the timelines, progress, and results of the project;

(b) evaluate the overall effectiveness of the project; and

(c) provide project and fiscal reports as required by contract.

(2) The department shall:

(a) conduct field evaluations of projects;

(b) require a project sponsor to initiate corrective action if an evaluation finds inadequacies in the project's progress or fiscal reporting; and

(c) on or before September 1 of each year preceding the convening of a regular session of the legislature, provide a report to the environmental quality council in accordance with 5-11-210. The report must include:

(i) an overview of the program;

(ii) a listing of projects funded during the reporting period;

(iii) an analysis of how projects funded are improving wildlife habitat; and

(iv) a summary of past and current funding.

Section 8. Rulemaking authority. The department shall adopt rules to implement [sections 1 through 8], including a scoring system for ranking projects proposed to the council.

Section 9. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 87, and the provisions of Title 87 apply to [sections 1 through 8].

Section 10. Effective date. [This act] is effective July 1, 2017.

Section 11. Termination. [This act] terminates June 30, 2023.

Approved May 7, 2017

CHAPTER NO. 343

[HB 462]

AN ACT PROVIDING AN ACADEMIC BREWER LICENSE UNDER THE SMALL BREWER EXCEPTION FOR A BREWER LICENSE; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Academic brewer license under small brewer exception – Flathead valley community college or Montana state university-Billings – conditions. (1) Flathead valley community college or Montana state university-Billings may apply for an academic brewer license under this section that allows the licensee to brew and sell beer to wholesalers as provided in this section. The academic brewer license:

(a) does not allow for the sale of beer at retail and does not allow for the operation of a sample room as provided in 16-3-213;

(b) is limited to production of 10,000 barrels annually;

(c) allows for distribution only to wholesalers as provided in 16-3-214;

(d) is under the ownership of Flathead valley community college or Montana state university-Billings;

(e) is not subject to quotas under 16-4-105 or to the provisions of 16-3-306;

(f) may not offer gambling activities;

(g) is otherwise subject to laws applying to brewery licenses as provided in this code; and

(h) must operate in an on-campus facility operated in conjunction with a beer-brewing class or curriculum taught at the community college or Montana state university-Billings.

(2) When Flathead valley community college or Montana state university-Billings has met the conditions in subsection (3) and has paid

the fee specified for a brewer under 16-4-501, the department shall issue the academic brewer license.

(3) To obtain a license under this section, Flathead valley community college or Montana state university-Billings shall:

(a) document approval by the community college district board of trustees or the board of regents of higher education, as applicable;

(b) identify the on-campus location of the site where classes in beer making are to be held; and

(c) for criminal background requirements under 16-4-414, designate two or more individuals, each of whom must have responsibility for licensing compliance and each of whom must meet the requirements in 16-4-401(4)(a).

(4) The department may adopt rules to implement this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 16, chapter 3, and the provisions of Title 16, chapter 3, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2017

CHAPTER NO. 344

[HB 507]

AN ACT GENERALLY REVISING LAWS CONCERNING SANITATION REVIEW FOR PROPOSED SUBDIVISIONS; CREATING A PILOT PROGRAM REVISING TIMELINES FOR SUBDIVISION SANITATION REVIEWS; AMENDING SECTIONS 75-1-208, 76-3-622, 76-4-104, 76-4-121, 76-4-122, 76-4-125, AND 76-4-127, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Review of application. Except as provided in 76-4-125, the applicant shall submit an application for review of a subdivision pursuant to the following procedure:

(1) An applicant may request a preapplication meeting with the reviewing authority prior to submitting an application. The reviewing authority shall schedule the requested meeting between the applicant and the reviewing authority within 30 days of receiving the request from the applicant. The meeting may be conducted in person, via telephone, or via teleconference. For informational purposes only, the reviewing agent shall identify the state laws and rules that may apply to the subdivision review process.

(2) If the proposed development includes onsite sewage disposal facilities, the applicant shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(3) (a) After submitting an application if required under the Montana Subdivision and Platting Act, the applicant shall submit an application to the reviewing authority. A subdivision application is considered to be received on the date of delivery to the reviewing authority when accompanied by the review fee established pursuant to 76-4-105.

(b) Within 15 days of the receipt of an application, the reviewing authority shall determine whether the application contains the elements required by [section 2(1)] to allow for review and shall notify the applicant of the reviewing authority's determination. If the reviewing authority determines

that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification. The applicant shall address the missing elements identified by the reviewing authority. A determination that an application contains the required elements for review as provided in this subsection (3)(b) does not ensure that the proposed subdivision will be approved and does not limit the ability of the reviewing authority to request additional information during the review process.

(c) (i) After the reviewing authority notifies the applicant that the application contains all of the required elements as provided by subsection (3)(b), the reviewing authority shall make a final decision or a recommendation on the application. Except as provided by subsection (4), the reviewing authority shall:

(A) make a final decision within 40 days of finding that the application contains all of the required elements if the reviewing authority is the department; or

(B) make a recommendation for approval to the department or deny the application within 30 days of finding that the application contains all of the required elements if the reviewing authority is a local department or board of health. If the department receives a recommendation for approval of the subdivision from a local department or board of health, the department shall make a final decision on the application within 10 days of receiving the recommendation of the reviewing authority.

(ii) If the department approves the application, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(iii) If the reviewing authority denies the application, the reviewing authority shall identify the deficiencies that result in the denial in a notification to the applicant.

(d) (i) If the reviewing authority denies an application and the applicant resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within 30 days after receipt of the resubmitted application.

(ii) If the reviewing authority denies an application and the applicant resubmits a corrected application after 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within:

(A) 55 days after receipt of the resubmitted application if the reviewing authority is the department; or

(B) 45 days after receipt of the resubmitted application if the reviewing authority is a local department or board of health.

(iii) If the review of the resubmitted application is conducted by a local department or board of health and the reviewing authority makes a recommendation to the department for approval of the application, the department shall make a final decision on the application within 10 days after the local reviewing authority completes its review under subsection (3)(d)(i) or (3)(d)(ii).

(4) If an environmental impact statement is required, the deadline to issue a final decision in (3)(c)(i) may be increased to 120 days.

(5) If the reviewing authority needs an extension of a deadline in this section to complete its review, then it shall notify the applicant prior to the end of the review deadline. An extension may not exceed 30 days; however, the reviewing authority may issue more than one extension.

Section 2. Contents of application – supplemental information. (1)

The application submitted under [section 1] must include preliminary plans and specifications for the proposed development, information required under rules adopted pursuant to this chapter, and any additional information the applicant feels necessary.

(2) In addition to the information required for the submission of the application under subsection (1), before the reviewing authority makes a final decision on the application, the applicant shall provide:

(a) a copy of the certification from the local health department required by 76-4-104(6)(k);

(b) if required under Title 76, chapter 3, an approval from the local governing body under Title 76, chapter 3; and

(c) any public comments or summaries of public comments collected as provided in 76-3-604(7).

Section 3. Annual report. The department shall report annually to the environmental quality council established by 5-16-101 summarizing the review procedures adopted under Title 76, chapter 4, and recommending whether statutory changes should be made to the process.

Section 4. Section 75-1-208, MCA, is amended to read:

“75-1-208. Environmental review procedure. (1) (a) Except as provided in 75-1-205(4) and subsection (1)(b) of this section, an agency shall comply with this section when completing any environmental review required under this part.

(b) To the extent that the requirements of this section are inconsistent with federal requirements, the requirements of this section do not apply to an environmental review that is being prepared jointly by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that must comply with the requirements of the National Environmental Policy Act.

(2) (a) Except as provided in subsection (2)(b), a project sponsor may, after providing a 30-day notice, appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The environmental quality council shall ensure that the appropriate agency personnel are available to answer questions.

(b) If the primary concern of the agency's environmental review of a project is the quality or quantity of water, a project sponsor may, after providing a 30-day notice, appear before the water policy committee established in 5-5-231 at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The water policy committee shall ensure that the appropriate agency personnel are available to answer questions.

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are provided by

law. All time limits are measured from the date the agency receives a complete application. An agency has:

- (i) 60 days to complete a public scoping process, if any;
 - (ii) 90 days to complete an environmental review unless a detailed statement pursuant to 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and
 - (iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).
- (b) The period of time between the request for a review by a board and the completion of a review by a board under 75-1-201(9) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, ~~76-4-125~~ [section 1], 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

(5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time, and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension, the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the extension.

(6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review by the expiration of the original or extended time period, the agency may not withhold a permit or other authority to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval to act would result in the violation of a statutory or regulatory requirement.

(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2.

(8) Under this part, an agency may only request information from the project sponsor that is relevant to the environmental review required under this part.

(9) An agency shall ensure that the notification for any public scoping process associated with an environmental review conducted by the agency is presented in an objective and neutral manner and that the notification does not speculate on the potential impacts of the project.

(10) An agency may not require the project sponsor to provide engineering designs in greater detail than that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate board, if any, review an agency's request regarding the level of design detail information that the agency believes is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(11) An agency shall, when appropriate, evaluate the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through preimpact statement studies, separate impact statement evaluations, or permit processing procedures."

Section 5. Section 76-3-622, MCA, is amended to read:

"76-3-622. Water and sanitation information to accompany preliminary plat. (1) Except as provided in subsection (2), the subdivider

shall submit to the governing body or to the agent or agency designated by the governing body the information listed in this section for proposed subdivisions that will include new water supply or wastewater facilities. The information must include:

- (a) a vicinity map or plan that shows:
 - (i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
 - (A) flood plains;
 - (B) surface water features;
 - (C) springs;
 - (D) irrigation ditches;
 - (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems;
 - (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and
 - (G) the representative drainfield site used for the soil profile description as required under subsection (1)(d); and
 - (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;
- (b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including:
 - (i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the department of environmental quality; and
 - (ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the exemption;
- (c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of environmental quality pursuant to 76-4-104;
- (d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:
 - (i) a soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;
 - (ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
 - (iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);
- (e) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:
 - (i) obtained from well logs or testing of onsite or nearby wells;
 - (ii) obtained from information contained in published hydrogeological reports; or
 - (iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to 76-4-104;

(f) evidence of sufficient water quality in accordance with rules adopted by the department of environmental quality pursuant to 76-4-104;

(g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

(2) A subdivider whose land division is excluded from review under ~~76-4-125(2)~~ 76-4-125(1) is not required to submit the information required in this section.

(3) A governing body may not, through adoption of regulations, require water and sanitation information in addition to the information required under this section unless the governing body complies with the procedures provided in 76-3-511."

Section 6. Section 76-4-104, MCA, is amended to read:

"76-4-104. Rules for administration and enforcement. (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

- (a) size of lots;
- (b) contour of land;
- (c) porosity of soil;
- (d) ground water level;
- (e) distance from lakes, streams, and wells;
- (f) type and construction of private water and sewage facilities; and
- (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions *consistent with [section 1]* by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified to review subdivisions proposed to connect to existing municipal water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department

or board of health is competent to review the subdivisions as described in subsection (3).

(5) The department shall review those subdivisions described in subsection (3) if:

(a) a proposed subdivision lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

(b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

(i) total development area; and

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) adequate evidence that a proposed drainfield mixing zone and a proposed well isolation zone are located wholly within the boundaries of the proposed subdivision where the drainfield or well is located or that an easement or, for public land, other authorization has been obtained from the landowner to place the proposed drainfield mixing zone or well isolation zone outside the boundaries of the proposed subdivision where the drainfield or well is located. A mixing zone may extend outside the boundaries of the proposed subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities. This subsection (6)(i) does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b).

(j) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through (6)(i);

(k) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the preliminary or final plan or plat. Evidence that the systems will comply with local laws and regulations must be in the form of a certification from the local health department as provided by department rule.

(l) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

~~(7) If the reviewing authority is a local department or board of health, it shall notify the department of its recommendation for approval or disapproval of the subdivision not later than 45 days from its receipt of the subdivision application. The department shall make a final decision on the subdivision within 10 days after receiving the recommendation of the local reviewing authority, but not later than 55 days after the submission of a complete application, as provided in 76-4-125.~~

(8)(7) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(9)(8) The reviewing authority may not deny or condition a certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition imposition. The statement must include:

- (a) the reason for the denial or condition imposition;
- (b) the evidence that justifies the denial or condition imposition; and
- (c) information regarding the appeal process for the denial or condition imposition.

(10)(9) The department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622.”

Section 7. Section 76-4-121, MCA, is amended to read:

“76-4-121. Restrictions on subdivision activities. A person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until:

(1) a certificate of subdivision approval has been issued pursuant to ~~76-4-125~~ [section 1] indicating that the reviewing authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;

(2) the governing body has provided certification pursuant to 76-4-127 that the subdivision is within a jurisdictional area that has adopted a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and adequate storm water drainage; or

(3) the subdivision is otherwise exempt from review under 76-4-125.”

Section 8. Section 76-4-122, MCA, is amended to read:

“76-4-122. Filing or recording of noncomplying plat or certificate of survey prohibited. (1) The county clerk and recorder may not file or record any plat or certificate of survey subject to review under this part showing a subdivision unless it complies with the provisions of this part.

(2) A county clerk and recorder may not accept a subdivision plat or certificate of survey subject to review under this part for filing until one of the following conditions has been met:

(a) the person wishing to file the plat or certificate of survey has obtained approval of the local health officer having jurisdiction and has filed the approval with the reviewing authority and a certificate of subdivision approval has been issued pursuant to ~~76-4-125~~ [section 1] indicating that the reviewing

authority has approved the subdivision application and that the subdivision is not subject to a sanitary restriction;

(b) the person wishing to file the plat or certificate of survey has obtained a certificate from the governing body pursuant to 76-4-127 that the subdivision is within an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities and adequate storm water drainage; or

(c) the person wishing to file the plat or certificate of survey has placed on the plat or certificate of survey an acknowledged certification that the subdivision is exempt from review under this part. The certification must quote in its entirety the wording of the applicable exemption.”

Section 9. Section 76-4-125, MCA, is amended to read:

“76-4-125. Review of subdivision application—land *Land divisions excluded from review.* (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) ~~At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development; whatever information the developer feels necessary for its subsequent review; any public comments or summaries of public comments collected as provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.~~

~~(b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant if the application does not include a copy of the certification from the local health department required by 76-4-104(6)(k) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3, together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).~~

~~(c) If the reviewing authority denies an application and the applicant resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within 30 days after receipt of the resubmitted application. If the review of the resubmitted application is conducted by a local department or board of health that is certified under 76-4-104, the department shall make a final decision on the application within 10 days after the local reviewing authority completes its review.~~

~~(d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 55 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision~~

approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction:

(2)(1) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusion cited in 76-3-201;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3)(2) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii) (1)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

Section 10. Section 76-4-127, MCA, is amended to read:

"76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in ~~76-4-125(2)(d)~~ 76-4-125(1)(d), the governing body, as defined in 76-3-103, shall, prior to final plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary;

(c) the number of proposed parcels in the subdivision;

(d) a copy of any applicable zoning ordinances in effect;

(e) how construction of the sewage disposal and water supply systems or extensions will be financed;

(f) certification that the subdivision is within an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;

(g) the relative location of the subdivision to the city or town;

(h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within the time provided in 76-3-507;

(i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and

(j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage.”

Section 11. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 76, chapter 4, part 1, and the provisions of Title 76, chapter 4, part 1, apply to [sections 1 through 3].

Section 12. Applicability. [This act] applies to subdivision applications submitted on or after October 1, 2017.

Section 13. Termination. [This act] terminates September 30, 2019.

Approved May 7, 2017

CHAPTER NO. 345

[HB 572]

AN ACT ESTABLISHING LICENSURE OF EATING DISORDER CENTERS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 50-5-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Licensure of eating disorder centers – rulemaking – definition. (1) The department shall license eating disorder centers that provide intensive outpatient or partial hospitalization programs for individuals with eating disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

(2) The department shall adopt administrative rules for licensure, including but not limited to rules establishing:

(a) patient-to-staff ratios;

(b) the treatment services that must be available on site or through arrangements with other health care facilities, including crisis and hospital services; and

(c) license and inspection fees. Fees must be reasonably related to service costs.

(3) The rules may not establish requirements that are more stringent than standards established by the commission on accreditation of rehabilitation facilities and the joint commission for accreditation of behavioral health care organizations that provide care for individuals with eating disorders.

(4) For the purposes of this section, “partial hospitalization program” means an active treatment program that offers therapeutically intensive, coordinated, structured treatment services to individuals who have been diagnosed with an eating disorder. Services include day, evening, night, and weekend treatment programs that use an integrated, comprehensive, and complementary schedule of recognized treatment or therapeutic activities.

Section 2. Section 50-5-101, MCA, is amended to read:

“50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Accreditation” means a designation of approval.

(2) “Accreditation association for ambulatory health care” means the organization nationally recognized by that name that surveys outpatient

centers for surgical services upon their requests and grants accreditation status to the outpatient centers for surgical services that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immuno-hematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) “College of American pathologists” means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) “Commission on accreditation of rehabilitation facilities” means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) “Comparative review” means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department’s review of the other applications.

(15) “Congregate” means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) “Construction” means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) “Council on accreditation” means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) “Critical access hospital” means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(19) “Department” means the department of public health and human services provided for in 2-15-2201.

(20) “DNV healthcare, inc.” means the company nationally recognized by that name that surveys hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and requirements.

(21) *“Eating disorder center” means a facility that specializes in the treatment of eating disorders.*

(21)(22) “End-stage renal dialysis facility” means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(22)(23) “Federal acts” means federal statutes for the construction of health care facilities.

(23)(24) “Governmental unit” means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(24)(25) “Healthcare facilities accreditation program” means the program nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(25)(26) (a) “Health care facility” or “facility” means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, *eating disorder centers*, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers

for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(26)(27) “Home health agency” means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(27)(28) “Home infusion therapy agency” means a health care facility that provides home infusion therapy services.

(28)(29) “Home infusion therapy services” means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual’s residence. The services include an educational component for the patient, the patient’s caregiver, or the patient’s family member.

(29)(30) “Hospice” means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient’s family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(30)(31) (a) “Hospital” means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(31)(32) “Infirmiry” means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an “infirmiry--A” provides outpatient and inpatient care;

(b) an “infirmiry--B” provides outpatient care only.

(32)(33) (a) “Intermediate care facility for the developmentally disabled” means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(33)(34) “Intermediate developmental disability care” means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(34)(35) “Intermediate nursing care” means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(35)(36) “Licensed health care professional” means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(36)(37) (a) “Long-term care facility” means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(37)(38) “Medical assistance facility” means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual’s attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(38)(39) “Mental health center” means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(39)(40) “Nonprofit health care facility” means a health care facility owned or operated by one or more nonprofit corporations or associations.

(40)(41) “Offer” means the representation by a health care facility that it can provide specific health services.

(41)(42) (a) “Outdoor behavioral program” means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

- (ii) charges a fee for its services; and
- (iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(42)(43) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(43)(44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(44)(45) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(45)(46) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(46)(47) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(47)(48) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(48)(49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(49)(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(50)(51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(51)(52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(52)(53) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(53)(54) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(54)(55) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(55)(56) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(56)(57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

- (i) patients with a cardiac condition;

- (ii) patients with an orthopedic condition;
- (iii) patients undergoing a surgical procedure; or
- (iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection ~~(56)~~ (57), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term “specialty hospital” does not include:

- (i) psychiatric hospitals;
- (ii) rehabilitation hospitals;
- (iii) children’s hospitals;
- (iv) long-term care hospitals; or
- (v) critical access hospitals.

~~(57)~~(58) “State health care facilities plan” means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

~~(58)~~(59) “Swing bed” means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.

~~(59)~~(60) “The joint commission” means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, part 2, apply to [section 1].

Approved May 7, 2017

CHAPTER NO. 346

[HB 604]

AN ACT REVISING PUBLIC SAFETY COMMUNICATIONS LAWS; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ACT; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ADMINISTERED BY THE DEPARTMENT OF JUSTICE; ESTABLISHING PRINCIPLES AND GUIDELINES FOR THE SYSTEM AND ADMINISTRATION BY THE DEPARTMENT; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ADVISORY COUNCIL; ALLOWING FOR THE ESTABLISHMENT OF SUBCOMMITTEES OF THE ADVISORY COUNCIL; ADMINISTRATIVELY ATTACHING THE ADVISORY COUNCIL AND SUBCOMMITTEES TO THE DEPARTMENT OF JUSTICE; ESTABLISHING THE DUTIES OF THE ADVISORY COUNCIL; ESTABLISHING THE DUTIES OF THE DEPARTMENT TO IMPLEMENT, MAINTAIN, AND SUSTAIN A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM; ALLOWING THE DEPARTMENT TO ESTABLISH RATES OR CHARGES FOR STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM SERVICES; ALLOWING FOR THE DEVELOPMENT OF AGREEMENTS BETWEEN GOVERNMENTAL AGENCIES RELATED TO A PUBLIC SAFETY COMMUNICATIONS

SYSTEM; REQUIRING REPORTING TO THE LAW AND JUSTICE INTERIM COMMITTEE AND LEGISLATURE; ESTABLISHING A STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ACCOUNT; PROVIDING A FIRSTNET EXEMPTION; GRANTING THE DEPARTMENT OF JUSTICE RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary and it is the policy of the state of Montana to promote and encourage coordination of the statewide public safety communications system among state and local agencies, efficient planning and development of the system, cost-effective deployment of the system, and the sustainability of public safety communications technology and infrastructure in the state to provide for the safety of its citizens and emergency responders and for the protection of public and private property; and

WHEREAS, the legislature recognizes that consistency, continuity, and cost-effectiveness is needed to sustain the existing statewide public safety communications system to protect public and private property and to promote the safety of Montana's citizens and emergency responders; and

WHEREAS, it is necessary to ensure cost-effective, long-term solutions for delivering efficient statewide public safety communications.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 9] may be cited as the "Statewide Public Safety Communications System Act".

Section 2. Findings – intent. (1) Montana finds that the continued planning and development of a unified statewide public safety communications system must be conducted in an organized, deliberate, and cost-effective manner.

(2) It is the intent of [sections 1 through 9] to guide future planning for and efforts to sustain the statewide public safety communications system by:

(a) creating and communicating operational recommendations and guidelines applicable to all state agencies and other entities using the statewide public safety communications system to improve overall satisfaction with the communications system, to increase the adoption of recommendations and guidelines, and to set a benchmark for user expectations;

(b) developing a sustainable maintenance plan for the statewide public safety communications system to ensure that the existing statewide public safety communications system remains operational and reliable;

(c) establishing a plan to fund upgrades, modifications, maintenance, or migration of technology within the statewide public safety communications system;

(d) ensuring that public-private partnerships are used to expand, modify, migrate, operate, and maintain the statewide public safety communications system in a cost-effective manner to achieve the objectives and required functionality of the system;

(e) to the greatest extent possible, encouraging the use of nonproprietary, standards-based and commercially available technology to allow a wide array of system options and cost-effective deployments;

(f) ensuring that the primary purpose of the statewide public safety communications system is to enable participating agencies to fulfill their respective missions, and not to implement a specific technology or standard; and

(g) requiring that future modifications, expansions, or migrations of the statewide public safety communications system are developed in cooperation with federal, state, tribal, and local governments and private industry with a

goal to provide seamless access to mission critical voice, data, or both voice and data communications to the greatest extent possible.

Section 3. Definitions. As used in [sections 1 through 9], the following definitions apply:

(1) “Advisory council” means the statewide public safety communications system advisory council established in [section 4].

(2) “Department” means the department of justice established in 2-15-2001.

(3) “FirstNet” means a radio access network planned in connection with a first responder network authority’s nationwide public safety broadband network for the purpose of supporting public safety voice and data communications.

(4) “Public safety communications system” means a system used primarily by public safety agencies for transmitting and receiving voice, data, or both voice and data communications. The term includes but is not limited to:

(a) the statewide trunked land-mobile radio system;

(b) statewide microwave network;

(c) any system interconnections that facilitate the operation of the statewide trunked land-mobile radio system; and

(d) future technology that enhances or replaces existing trunked land-mobile radio systems or microwave networks.

Section 4. Statewide public safety communications system advisory council – membership – subcommittees. (1) There is a statewide public safety communications system advisory council.

(2) Subject to subsection (8), the advisory council consists of nine members appointed by the governor as follows:

(a) the attorney general or the attorney general’s designee from the department, who serves as presiding officer of the council;

(b) a representative of the governor’s office;

(c) a representative of the law enforcement community;

(d) a representative of the fire protection community;

(e) a representative of the emergency medical community;

(f) a representative of a municipality, designated by the Montana league of cities and towns;

(g) a representative of county government, designated by the Montana association of counties;

(h) a representative of the association of public-safety communications officials, designated by the Montana chapter of the association of public-safety communications officials; and

(i) a representative of tribal governments.

(3) The advisory council may create temporary or permanent subcommittees, when necessary, to advise members of the council. Subcommittee membership, appointed by a majority of the advisory council, may include but is not limited to:

(a) a representative of the Montana highway patrol;

(b) a representative of the department of transportation, maintenance division;

(c) a representative of the department of military affairs, disaster and emergency services division;

(d) a representative of the department of administration, state information technology services division;

(e) a representative of the department of natural resources and conservation, division of forestry, fire and aviation management bureau;

(f) two representatives of the Montana association of counties, with one representing counties with populations less than 30,000 and one representing counties with populations greater than 30,000;

(g) two representatives of the Montana league of cities and towns, with one representing cities and towns with populations less than 30,000 and one representing cities with populations greater than 30,000;

(h) a representative of the Montana sheriffs and peace officers association;

(i) a representative of the Montana association of chiefs of police;

(j) a representative of the Montana state fire chiefs' association;

(k) a representative of the Montana state volunteer firefighters association;

(l) a representative of the Montana emergency medical services association;
and

(m) a representative of the Montana association of public safety communications officials.

(4) The advisory council shall establish a technical subcommittee to advise subcommittees appointed in accordance with subsection (3) and the advisory council established in subsection (2) on subjects including but not limited to:

(a) system maintenance and operational issues; and

(b) technology considerations as assigned by the advisory council.

(5) The advisory council and related subcommittees are attached to the department for administrative purposes only, as provided in 2-15-121.

(6) The advisory council shall at a minimum, within its budget, hold quarterly meetings.

(7) Advisory council members and subcommittee members shall serve without additional compensation.

(8) (a) Membership on the advisory council established in accordance with subsection (2) is limited to agencies or their appointed representatives who use the statewide public safety communications system.

(b) Members shall work to improve and sustain the statewide public safety communications system within the state.

(c) This subsection (8) does not limit the ability of a vendor, consultant, or other individual representing a business to, by invitation, provide the advisory council with useful information.

(9) (a) Vendors, consultants, and other individuals representing business interests may be appointed to a subcommittee formed in accordance with subsection (3) or (4).

(b) Members included under this subsection (9) are nonvoting members.

Section 5. Statewide public safety communications system advisory council – duties and responsibilities. (1) The advisory council shall:

(a) advise the department concerning future development and sustainability of the statewide public safety communications system;

(b) provide recommendations to the department for the continued funding of the statewide public safety communications system;

(c) provide recommendations to the department concerning the establishment of potential rates and other charges for use of the statewide public safety communications system to sustain, expand, or both sustain and expand the system;

(d) advise the department in the development of statewide public safety communications system standards and policies; and

(e) advise the department on significant matters concerning statewide public safety communications system services in the state of Montana, including rulemaking in accordance with [section 9].

(2) The advisory council shall review the operations and funding of the statewide public safety communications system in Montana to ensure:

(a) efficient spending of public funds;

(b) statewide standards for use and access of the public safety communications system;

(c) leveraging, when and where it has been deemed operationally suitable and economically advantageous, existing commercial communications infrastructure; and

(d) overall operational efficiency, while not unreasonably limiting system users in fulfilling their respective missions.

Section 6. Duties of department. (1) (a) Except as provided in subsection (1)(b), there is a statewide public safety communications system administered by the department.

(b) The department of natural resources and conservation may opt out of the public safety communications system.

(2) The department shall implement, sustain, and plan for the statewide public safety communications system within the limits of budget authority dedicated to the system.

(3) The department shall:

(a) encourage and foster the development of new and innovative technology within the public safety communications system and ways to deliver public safety communications functions;

(b) promote and coordinate the sharing of statewide public safety communications system resources;

(c) establish and execute a long-term, fiscally sustainable strategic plan for the statewide public safety communications system;

(d) establish and communicate policies and standards for the statewide public safety communications system;

(e) staff and cover the costs of the advisory council established in [section 4];

(f) operate and maintain the statewide public safety communications system for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department, within the limits of budget authority dedicated to the system;

(g) establish rates and other charges for statewide public safety communications system services provided by the department;

(h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any combination of operation, maintenance, or expansion of the statewide public safety communications system. Proposed fees must be deposited in the account established in [section 7] and included in the department's budget.

(i) accept federal funds, gifts, grants, and donations for the purposes of [sections 1 through 9];

(j) accept county, tribal, and municipal funds provided for the operation, maintenance, deployment, expansion, or any combination of operation, maintenance, deployment, or expansion of the statewide public safety communications system;

(k) at the department's discretion, accept a transfer of ownership for the existing statewide public safety communications system, subsystems, or other assets or property from a county, tribal, federal, or municipal government;

(l) establish agreements between governmental agencies that currently own, operate, or both own and operate infrastructure on the statewide public safety communications system. Agreements must, if applicable, recognize that current network control points are owned and administered by a county and will remain owned and administered by a county.

(m) pursue funding opportunities that can be leveraged based on user participation;

(n) before September 1 of each year, report to the law and justice interim committee and to the legislature as provided in 5-11-210 on the statewide public safety communications system activities of the department; and

(o) represent the state before public and private entities on matters pertaining to the statewide public safety communications system.

(4) The department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of [sections 1 through 9].

(5) The department shall operate and maintain the statewide public safety communications system within the limits of budget authority dedicated to the system.

(6) [Sections 1 through 9] do not provide the department with regulatory authority or responsibility over a commercial business.

Section 7. Statewide public safety communications system account. (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money from a state or local agency for the purposes of [sections 1 through 9];

(c) rates, charges, or fees collected by the department in accordance with [section 6(3)(h)];

(d) funds accepted in accordance with [section 6(3)(i) and section 6(3)(j)]; and

(e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [sections 1 through 9].

(3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account. There must be deposited in the account money received from the federal government for the purposes of [sections 1 through 9].

(4) Funds in either account created in this section must be used by the department for the purposes of [sections 1 through 9].

Section 8. FirstNet exemption. [Sections 1 through 7] and rules adopted in accordance with [sections 1 through 7] do not affect:

(1) the state's ability to use FirstNet, including new services and applications available with FirstNet; or

(2) any obligations or responsibilities related to FirstNet in accordance with federal statute.

Section 9. Rulemaking authority. (1) The department may adopt rules necessary to implement [sections 1 through 8]. Rules may include provisions for:

(a) implementation of [sections 1 through 8]; and

(b) administration of the statewide public safety communications system in accordance with [sections 1 through 8];

(2) Rules must be adopted in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4.

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 11. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 44, and the provisions of Title 44 apply to [sections 1 through 9].

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective July 1, 2017.

Approved May 7, 2017

CHAPTER NO. 347

[HB 618]

AN ACT INCREASING THE UTILIZATION FEE FOR NURSING FACILITIES TO INCREASE NURSING HOME REIMBURSEMENT RATES; PROVIDING A WAGE INCREASE FOR CERTAIN DIRECT CARE WORKERS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-60-102 AND 15-60-211, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-60-102, MCA, is amended to read:

“15-60-102. (Temporary) Utilization fee for bed days in nursing facilities. (1) A nursing facility in the state shall pay to the department a utilization fee for each bed day in the facility in the following amounts:

(a) in the amount of \$2.80, which must be applied to maintain the price-based average payment rate to nursing facilities at the fiscal year ~~2003~~ 2017 base amount;

(b) in the amount of \$5.50 to be used to maintain the price-based average payment rate to nursing facilities at the fiscal year 2017 base amount as provided in 15-60-211;

(b)(c) in fiscal year ~~2006~~ 2018, an additional amount of ~~\$4.25~~ \$3 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year ~~2003~~ 2017 base as provided in 15-60-211; and

(c)(d) ~~beginning July 1, 2006 on and after July 1, 2018~~, an additional amount of ~~\$5.50~~ \$7 to be used to increase the price-based average payment rate to nursing facilities above the fiscal year ~~2003~~ 2017 base as provided in 15-60-211.

(2) The fees collected must be deposited as follows:

(a) the amounts collected as provided in subsection (1)(a), in the general fund; and

(b) the amounts collected as provided in subsections (1)(b) ~~and (1)(c) through (1)(d)~~, in the account in the state special revenue fund as provided in 15-60-211.

(3) A nursing facility may not place a fee created in this section on a patient's bill. (Void on occurrence of contingency--sec. 18, Ch. 746, L. 1991--see chapter compiler's comment.)”

Section 2. Section 15-60-211, MCA, is amended to read:

“15-60-211. State special revenue account. (1) There is a nursing facility utilization fee account in the state special revenue fund as provided in 17-2-102.

(2) (a) All money collected under 15-60-102(1)(b) ~~and (1)(c) through (1)(d)~~ must be deposited in this account.

(b) Money ~~in the account collected under 15-60-102(1)(b)~~ must be used by the department of public health and human services for the purpose of ~~increasing~~ *maintaining* the average price paid for medicaid nursing facility services ~~above~~ at the fiscal year ~~2003~~ 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes.

(c) *All money collected under 15-60-102(1)(c) and (1)(d) must be used by the department of public health and human services for the purpose of:*

(i) *increasing the average price paid for medicaid nursing facility services above the fiscal year 2017 level under the price-based reimbursement system used to establish medicaid payment rates to nursing homes; and*

(ii) *in each year of the biennium beginning July 1, 2017, providing a wage increase of 50 cents per hour to certified nursing assistants working in nursing facilities, provided in increments of 25 cents per hour every 6 months.*

(3) Money remaining in this account at the end of a fiscal year may not be expended or transferred for any other purpose and is subject to appropriation by a subsequent legislature for purposes consistent with subsection (2)."

Section 3. Appropriation. (1) (a) There is appropriated from the special revenue account provided for in 15-60-211 to the department of public health and human services \$4,427,982 in fiscal year 2018 and \$10,331,958 in fiscal year 2019 to fund increases in medicaid payments to nursing facilities.

(b) Of the amount appropriated in subsection (1)(a), \$584,120 must be used in fiscal year 2018 and \$1,365,085 in fiscal year 2019 for the wage increase for certified nursing assistants provided for in 15-60-211(2)(c)(ii).

(2) (a) There is appropriated from the federal special revenue fund to the department of public health and human services \$8,391,884 in fiscal year 2018 and \$20,074,039 in fiscal year 2019 to fund increases in payments to nursing facilities.

(b) Of the amount appropriated in subsection (2)(a), \$1,103,112 must be used in fiscal year 2018 and \$2,577,968 in fiscal year 2019 for the wage increase for certified nursing assistants provided for in 15-60-211(2)(c)(ii).

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 7, 2017

CHAPTER NO. 348

[HB 622]

AN ACT REVISING LAWS RELATED TO INVASIVE SPECIES; ESTABLISHING THE INVASIVE SPECIES COUNCIL; ESTABLISHING THE UPPER COLUMBIA CONSERVATION COMMISSION; PROVIDING POWERS AND DUTIES; REQUIRING REPORTING; REVISING LOCATION AND TIMING OF INSPECTIONS IN THE STATEWIDE INVASIVE SPECIES MANAGEMENT AREA; AUTHORIZING COUNTY INVASIVE SPECIES ORDINANCES; ESTABLISHING THE MISSOURI RIVER CONTAINMENT AND QUARANTINE PROGRAM; ESTABLISHING THE UPPER COLUMBIA PILOT PROGRAM; REVISING PENALTIES; PROVIDING APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-7-1003, 80-7-1007, 80-7-1008, 80-7-1011, 80-7-1014, AND 80-7-1015, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Invasive species council. (1) There is an invasive species council within the department of natural resources and conservation. The

council is attached to the department for administrative purposes only, as prescribed in 2-15-121.

(2) The council consists of the following 22 members:

(a) the directors of the following departments or their designees:

- (i) fish, wildlife, and parks;
- (ii) natural resources and conservation;
- (iii) transportation;
- (iv) agriculture; and
- (v) commerce;

(b) a representative of each of the following appointed by and serving at the pleasure of the governor:

- (i) county weed districts;
- (ii) conservation districts;
- (iii) the Montana state university extension service;
- (iv) agriculture;
- (v) conservation organizations;
- (vi) wildlife organizations;
- (vii) fishing organizations;
- (viii) hydropower utility industry;
- (ix) private landowners; and
- (x) each of the tribal governments in Montana.

(3) The council shall seek active input and participation in its deliberations from the U.S. army corps of engineers, the U.S. bureau of reclamation, the U.S. bureau of land management, the U.S. department of agriculture animal and plant health inspection service, the U.S. fish and wildlife service, the U.S. forest service, and the national park service.

(4) The council members shall serve without pay. Unless otherwise provided by law, each council member is entitled to be reimbursed for travel expenses pursuant to 2-18-501 through 2-18-503.

(5) Council members shall serve staggered 4-year terms.

(6) A majority of the membership of the council constitutes a quorum to do business. A favorable vote of at least a majority of all of the members is required to adopt any resolution, to approve a motion, or to make any other decision.

(7) The council shall meet no less than twice annually.

(8) The governor shall appoint the presiding officer, who shall serve in that capacity for a 2-year term.

(9) The presiding officer and the director of the department of natural resources and conservation shall serve as the council's liaisons to the governor's office.

Section 2. Upper Columbia conservation commission. (1) There is an upper Columbia conservation commission within the department of natural resources and conservation. The commission is attached to the department for administrative purposes only, as prescribed in 2-15-121.

(2) There are nine voting commission members who are appointed by and serve at the pleasure of the governor. They include one member at large and a representative of each of the following:

- (a) the hydropower utility industry;
- (b) electric cooperatives located within the Columbia river basin in Montana;
- (c) conservation districts;
- (d) recreation organizations;
- (e) private industry;
- (f) private landowners;

- (g) the Confederated Salish and Kootenai Tribes; and
- (h) the invasive species council established in [section 1].

(3) The speaker of the house and the president of the senate shall each appoint one nonvoting member to the commission. The appointments must be coordinated so that the appointments are bipartisan.

(4) The commission shall seek active input and participation in its deliberations from the U.S. forest service, the national park service, the U.S. fish and wildlife service, the U.S. department of agriculture natural resources conservation service, the U.S. army corps of engineers, the U.S. bureau of reclamation, and the northwest power and conservation council.

(5) The commission members shall serve without pay. Unless otherwise provided by law, commission members are entitled to reimbursement for travel expenses pursuant to 2-18-501 through 2-18-503.

(6) Commission members shall serve staggered 4-year terms.

(7) A majority of the voting membership of the commission constitutes a quorum to do business. A favorable vote of at least a majority of the voting members is required to adopt any resolution, to approve a motion, or to make any other decision, unless otherwise provided by law.

(8) The governor shall appoint the presiding officer.

Section 3. Invasive species ordinances. (1) Subject to subsection (2), counties located within the Columbia river basin may adopt ordinances and resolutions regarding the prevention or control of invasive species, as defined in 80-7-1003, within the county.

(2) If an Indian reservation is located within the boundaries of the county, the board of county commissioners shall consult with the governing body of the tribe or tribes of the Indian reservation prior to adopting an ordinance pursuant to this section.

Section 4. Invasive species council – purpose and duties – reporting – definition. (1) The purpose of the invasive species council is to advise the governor on a science-based, comprehensive program to identify, prevent, eliminate, reduce, and mitigate invasive species in Montana and to coordinate with public and private partners to develop and implement statewide invasive species strategic plans.

(2) The council shall:

(a) provide policy level recommendations, direction, and planning assistance for combating infestations of invasive species throughout the state and preventing the introduction of other invasive species;

(b) foster cooperation, communication, and coordinated approaches that support federal, state, provincial, regional, tribal, and local initiatives for the prevention, early detection, and control of invasive species;

(c) identify, coordinate, and maintain an independent science advisory panel that informs Montana's efforts based on the current status, trends, and emerging technology as they relate to invasive species management in Montana;

(d) in coordination with stakeholders, identify and implement priorities for coordination, prevention, early detection, rapid response, and control of invasive species in Montana;

(e) champion priority invasive species issues identified by stakeholders to best protect the state;

(f) advise and coordinate with agency personnel, local efforts, and the scientific community to implement program priorities;

(g) implement an invasive species education and outreach strategy;

(h) work with regional groups to coordinate regional defense and response strategies; and

(i) work toward establishing and maintaining permanent funding for invasive species priorities.

(3) The council may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

(4) The council shall report on its activities to the governor, the director of the department of natural resources and conservation, and the environmental quality council annually.

(5) For the purposes of this section, “invasive species” means plants, animals, and pathogens that are nonnative to Montana’s ecosystem and cause harm to natural and cultural resources, the economy, and human health.

Section 5. Missouri river containment and quarantine program.

(1) The department of fish, wildlife, and parks shall operate a containment and quarantine program for water bodies fouled by invasive mussels in the Missouri river system, including but not limited to:

(a) restrictions on moored vessels within the system;

(b) restrictions regarding the use of launch sites and the exit of vessels from fouled water bodies in the system. Launching in and exiting from fouled water bodies is restricted to vessels certified by the department of fish, wildlife, and parks for local use on those water bodies, unless check stations and decontamination units are present.

(c) restrictions on fishing derbies in fouled water bodies.

(2) By December 31, 2018, the department of fish, wildlife, and parks shall develop a containment and quarantine plan for the Missouri river system, allowing for public input and comment, and submit the plan to the invasive species council established in [section 1]. The plan may permit the reopening of fouled water bodies in the system to all vessels if launch site inspectors are properly trained, if the necessary infrastructure and equipment are in place and have been fully tested in advance of deployment, and if invasive species are fully contained, after decontamination, to the source water body.

Section 6. Upper Columbia conservation commission – purpose and duties. (1) The purpose of the upper Columbia conservation commission, established in [section 2], is to protect the aquatic environment in tributaries to the Columbia river from the threat of invasive species.

(2) The commission shall:

(a) monitor the condition of aquatic resources in the tributaries to the Columbia river and coordinate development of an annual monitoring plan. The plan must use a cooperative strategy among all water management agencies within the Columbia river basin in Montana and identify monitoring specific to invasive species threats.

(b) encourage the close cooperation and coordination between federal, state, regional, tribal, and local water resource managers for establishment of comprehensive monitoring, data collection, and interpretation;

(c) encourage and work for international cooperation and coordination between the state of Montana and the Canadian province of British Columbia;

(d) develop and implement an invasive species education and outreach strategy specifically for the upper Columbia river basin in Montana;

(e) encourage economic development by reducing threats from invasive species and conducting restoration and infestation control measures;

(f) provide an annual report of the following to the governor, the director of the department of natural resources and conservation, and the environmental quality council:

(i) a summary of information gathered in fulfillment of its duties under this section;

(ii) information on monitoring activities within the portions of the Columbia river basin occurring in Montana;

(iii) an accounting of all money received and expended by source and purpose for the period since the last report; and

(g) meet at least biannually, alternating the meeting site between the cities of Kalispell and Missoula.

(3) The commission may make recommendations to the governor and to federal, state, tribal, provincial, regional, and local agencies for reducing threats from invasive species and for conducting restoration and infestation control measures.

(4) The commission may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

Section 7. Upper Columbia pilot program -- rulemaking. The Flathead basin commission established in 2-15-3330 shall administer a pilot program within the Flathead basin, as defined in 75-7-303, to enhance protections in the basin against invasive species and may:

(1) within or adjacent to the Flathead basin, use certification stations that may provide voluntary inspections and decontamination of vessels but at which vessels are not required to stop. Certification stations may be operated by government or private entities that are trained, certified, and monitored for quality assurance by the Flathead basin commission.

(2) band or track vessels that have been inspected, require decontamination, or are certified by the department of fish, wildlife, and parks for local use;

(3) implement a boat sticker program to raise funds for prevention efforts;

(4) use automated inspection and detection devices; and

(5) pursuant to 2-4-315, petition the fish and wildlife commission to adopt rules for the Flathead basin, including but not limited to rules that:

(a) require inspection of all vessels before they are launched;

(b) close launch sites, as needed;

(c) prohibit or restrict certain vessels and equipment, such as waterborne planes, ballast boats, and aquatic weed harvesters, from use on specific or all water bodies within the basin;

(d) prohibit or restrict certain types of dead and live bait; and

(e) close waters where invasive mussels have been detected until a containment strategy can be implemented.

Section 8. Section 80-7-1003, MCA, is amended to read:

“80-7-1003. Definitions. As used in this part, the following definitions apply:

(1) “Departments” means the department of agriculture, the department of fish, wildlife, and parks, the department of natural resources and conservation, and the department of transportation.

(2) “Equipment” means an implement or machinery that has been wholly or partially immersed in surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes, and buoys.

(3) “Invasive species” means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(4) “Invasive species management area” means a designation made by a department under 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(5) "Person" means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(6) "*Tributaries to the Columbia river*" means all water bodies in Montana from which water drains into the Columbia river.

(6)(7) "Vessel" has the meaning provided in 61-1-101."

Section 9. Section 80-7-1007, MCA, is amended to read:

"80-7-1007. Rulemaking authority. (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

(a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

(b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

(c) designation, regulation, and treatment of an invasive species management area under 80-7-1008, including rules pertaining to:

(i) the use of quarantine regulations and measures;

(ii) the movement of vessels and equipment within, to, or from the area; and

(iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; ~~and~~

(d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive species; *and*

(e) *prohibition on the use of felt-soled waders.*

(2) The departments shall adopt rules for the administration of the statewide species management area established in 80-7-1015, including rules specifying the method or methods for preventing the introduction or further introduction of invasive species into the state, and shall adopt rules for:

(a) the use of quarantine measures;

(b) the movement of vessels and equipment into the state; and

(c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and equipment moving into the state."

Section 10. Section 80-7-1008, MCA, is amended to read:

"80-7-1008. Invasive species management area – authorization.

(1) Except as provided in 80-7-1015, when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

(a) the invasive species present or considered threatening; and

(b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:

(i) the use of quarantine measures;

(ii) the movement of vessels and equipment within, to, and from the area; *and*

(iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to, or from the area. ~~A department may conduct~~

~~mandatory~~ *Mandatory* inspections of any interior portion of a vessel or equipment that may contain water *may occur* only if ~~the department has included~~ the use of mandatory inspections *is included* as part of quarantine measures established pursuant to subsection (3)(b)(i).

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.”

Section 11. Section 80-7-1011, MCA, is amended to read:

“80-7-1011. Check stations. (1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station established under subsection (1), the departments may examine vessels and equipment for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. ~~A department may examine~~ *Examination of* any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance *may occur* only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(4) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b). ~~The department shall make every~~ *Every effort must be made* to ensure decontamination of the vessel or equipment as expeditiously as possible.”

Section 12. Section 80-7-1014, MCA, is amended to read:

“80-7-1014. Penalty. (1) Except as provided in subsection (2), the following penalties apply:

(a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$500 *for the first offense and \$750 for subsequent offenses*.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$1,000 *\$975. In addition, the person shall forfeit the following as issued by this state:*

(i) any current fishing license and the privilege to fish in this state for a period of time set by the court; and

(ii) any current sticker or decal required under this part to operate a vessel on the waters of this state.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed

~~\$5,000~~ \$10,000, or both. A person convicted of violating this subsection (1)(c) may also be required to *surrender an involved vessel and* pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed ~~\$250~~ \$2,500 may be imposed on any person who violates any other provision of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund."

Section 13. Section 80-7-1015, MCA, is amended to read:

"80-7-1015. Statewide invasive species management area. (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment ~~at key entry points to entering the state on a seasonal basis~~ and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. ~~A department may examine~~ *Examination of* any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance *may occur* only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. ~~The department shall make every~~ *Every effort must be made* to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems,

must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks.”

Section 14. Appropriation. For the biennium beginning July 1, 2017, there is appropriated from the invasive species account established in 80-7-1004:

- (1) \$95,000 to the invasive species council established in [section 1]; and
- (2) \$10,000 to the upper Columbia conservation commission established in [section 2].

Section 15. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 16. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, part 33, and the provisions of Title 2, chapter 15, part 33, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 7, chapter 22, and the provisions of Title 7, chapter 22, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 80, chapter 7, and the provisions of Title 80, chapter 7, apply to [section 4].

(4) [Sections 5 through 7] are intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [sections 5 through 7].

Section 17. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 14] is effective July 1, 2017.

Section 18. Termination. [Section 7] terminates June 30, 2019.

Approved May 7, 2017

CHAPTER NO. 349

[HB 623]

AN ACT REVISING LAWS RELATED TO BONUS POINTS FOR HUNTING LICENSES, TAGS, AND PERMITS; ALLOWING THE PURCHASE OF PREFERENCE POINTS WITHOUT THE PURCHASE OF A LICENSE, TAG, OR PERMIT; ESTABLISHING FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-1-301, 87-1-303, 87-1-304, AND 87-2-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. License bonus point system. (1) The commission shall establish a bonus point system that gives an applicant who has purchased more bonus points more chances to receive a hunting license, tag, or permit over an applicant who has purchased fewer bonus points.

(2) A person may purchase only one bonus point per species per license year and may:

(a) purchase a bonus point when applying for a license, tag, or permit by paying the fee established in 87-2-113(2) per species; or

(b) purchase a bonus point without applying for a license, tag, or permit by paying the fee established in subsection (5). An applicant not applying for a license, tag, or permit may purchase a bonus point only between July 1 and September 30 in the current license year.

(3) The department may only apply any accumulated bonus points to a person's chance to obtain a license, tag, or permit if the person purchases a bonus point when applying for the license, tag, or permit.

(4) Bonus points may only be applied to first choice drawings.

(5) (a) A resident who does not apply for a license, tag, or permit may purchase a bonus point for \$15 for each species for which a bonus point is made available by the commission.

(b) A nonresident who does not apply for a license, tag, or permit may purchase a bonus point for \$25 for each species for which a bonus point is made available by the commission, except that the fee is \$75 for moose, mountain goat, mountain sheep, and wild buffalo or bison.

(6) The department may not delete a person's accumulated bonus points unless the person obtains the license, tag, or permit associated with the bonus points, in which case the department shall delete the person's accumulated bonus points.

(7) The department shall square the number of points purchased by a person per species when conducting drawings for licenses, tags, and permits.

Section 2. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in subsections ~~(7) and (8)~~ *(6) and (7)*, the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 23-1-111 and 87-1-209(2) and (4);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife

management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

~~(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:~~

~~(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and~~

~~(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.~~

~~(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.~~

~~(6)(5) (a) The commission may adopt rules to:~~

~~(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and~~

~~(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.~~

~~(b) The commission shall consider, but is not limited to consideration of, the following factors:~~

- ~~(i) harvest of lions by resident and nonresident hunters;~~
- ~~(ii) history of quota overruns;~~
- ~~(iii) composition, including age and sex, of the lion harvest;~~
- ~~(iv) historical outfitter use;~~
- ~~(v) conflicts among hunter groups;~~
- ~~(vi) availability of public and private lands; and~~
- ~~(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.~~

(7)(6) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8)(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9.”

Section 3. Section 87-1-303, MCA, is amended to read:

“87-1-303. Rules for use of lands and waters. (1) Except as provided in 23-1-111, 87-1-301(7)(6), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in 87-1-301(7)(6), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of

and the route to be used for domestic livestock trailing activities to the extent that the rules are necessary both to enable the trailing of domestic livestock across the designated wildlife management area and to protect and enhance state lands. The rules may not:

- (i) require a fee for domestic livestock trailing or related activities; or
- (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

(4) For the purposes of this section, the following definitions apply:

(a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Section 4. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits. (1) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may:

- (a) fix seasons, bag limits, possession limits, and season limits;

- (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101;

- (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;

- (d) subject to the provisions of 87-1-301~~(7)~~(6), restrict areas and species to hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experiences; and

- (e) declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

- (2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

- (3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

- (4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking

stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

(5) The commission may authorize the director to open or close any special season upon 12 hours' notice to the public.

(6) The commission may declare certain fishing waters closed to fishing except by persons under 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing.

(7) In an area immediately adjacent to a national park, the commission may not:

(a) prohibit the hunting or trapping of wolves; or

(b) close the area to wolf hunting or trapping unless a wolf harvest quota established by the commission for that area has been met."

Section 5. Section 87-2-113, MCA, is amended to read:

"87-2-113. Application fees. (1) (a) Except as provided in subsection (1)(b), when the department determines a drawing is necessary prior to issuance of hunting licenses for any game species during a hunting season, it shall collect a \$5 per species application fee.

(b) The department shall collect the following per species special license application fees:

(i) moose--resident, \$10; nonresident, \$50;

(ii) mountain goat--resident, \$10; nonresident, \$50;

(iii) mountain sheep--resident, \$10; nonresident, \$50;

(iv) wild buffalo or bison--resident, \$10; nonresident, \$50.

(2) (a) If a resident participates in a ~~preference~~ *the bonus point* system adopted by the commission, the department shall collect an additional application fee of \$2 per species ~~to fund the administration of the preference system.~~

(b) If a nonresident participates in a ~~preference~~ *the bonus point* system adopted by the commission, the department shall collect an additional application fee of \$20 per species ~~to fund the administration of the preference system.~~

(3) Application fees collected pursuant to this section must be deposited in the state special revenue fund to the credit of the department as set forth in 87-1-601.

(4) The payment of an application fee confers no hunting rights or privileges.

(5) The commission may waive the provisions of subsection (1) when a drawing is required for a special season under 87-1-304."

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1, apply to [section 1].

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2017

CHAPTER NO. 350

[HB 642]

AN ACT AUTHORIZING TRANSFERS AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT ON FEES COLLECTED

TO THE LEGISLATIVE CONSUMER COMMITTEE; AMENDING SECTION 69-1-224, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfers. By August 15, 2017, the state treasurer shall make the following transfers:

(1) \$500,000 from the economic development special revenue account provided for in 90-1-205 to the general fund;

(2) \$200,000 from the economic development special revenue account provided for in 90-1-205 to the governor's operations account within the state special revenue fund; and

(3) \$600,000 from the funds collected pursuant to 32-9-105 and 32-9-133 to the general fund.

Section 2. Section 69-1-224, MCA, is amended to read:

"69-1-224. Determination of fee -- reporting. (1) On or before August 31 of each year, the department of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies for the previous fiscal year;

(b) compute the percentage, subject to revision as provided in subsection (2), of the amount determined in subsection (1)(a) that will produce an amount equal to the current appropriation to the office of the consumer counsel, except that a regulated company owned and operated by any municipal corporation within this state may not be required to pay a sum in excess of 0.06 of 1% of its gross operating revenue;

(c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are generated to meet the appropriation and that excess funds are not generated or retained by:

(i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and comparing it to the fees collected from the previous fiscal year;

(ii) reducing or increasing the percentage determined in subsection (1)(b) for the current year in order to account for any difference determined in subsection (1)(c)(i); and

(iii) if necessary, reducing the revenue to be collected for the current year by any funds remaining unspent at the close of the prior fiscal year; and

(d) give notice by mail to each regulated company of the percentage to be applied to the gross operating revenue reported under 69-1-223(2) to determine the amount of the fee to be paid.

(2) (a) The department of revenue shall adjust the percentage multiplier if the department considers a change necessary to meet or to not exceed the amount to be raised by the fee because of:

(i) fluctuations in the actual gross operating revenue subject to the fee; or

(ii) submission and approval of a budget amendment authorizing the spending of money from a contingency appropriation included in the appropriation measure for the office of the consumer counsel and authorized to be raised by means of the fee.

(b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1)(b) for municipally owned and operated regulated companies.

(c) Regulated companies must be given at least 30 days' notice of any change in the percentage multiplier.

(d) Any change in the percentage multiplier is effective at the beginning of the next calendar quarter.

(3) In the event that the fee charged in 1 year is in excess of the amount actually expended in that year, the excess must be deducted from the amount required to be raised by the fee for the next year before the determination required by subsection (1) is made. Money remaining unspent at the close of the fiscal year must be used to reduce the percentage calculated in subsection (1) in the subsequent fiscal year.

(4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue of the notice required by subsection (1), the public service commission shall by separate order authorize each regulated company to fully recover in its rates and charges, on an annual basis, the fees levied by this part.

(5) (a) *By January 15 and July 15 of each year, the department of revenue shall submit a written report to the legislative consumer committee identifying the following:*

(i) the amount of total fees collected by the department dedicated to the consumer counsel;

(ii) the amount of fees collected in the previous 2 quarters and the percentage multiplier applied; and

(iii) the total amount of collections in the previous fiscal year and the percentage multiplier applied.

(b) The report must be provided in an electronic format."

Section 3. Effective date. [This act] is effective July 1, 2017.

Approved May 7, 2017

CHAPTER NO. 351

[HB 648]

AN ACT AUTHORIZING TRANSFERS AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; CLARIFYING ALLOCATIONS OF THE COAL SEVERANCE TAX; ESTABLISHING AN ENTERPRISE FUND FOR DEPOSIT OF FEES FOR CERTAIN SERVICES PROVIDED BY THE DEPARTMENT OF LIVESTOCK; CLARIFYING FUNDING SOURCES FOR LIEN PURCHASES; DIRECTING COAL SEVERANCE TAX TO THE GENERAL FUND FOR STATUTORY APPROPRIATION TO THE PENSION SYSTEM; PROVIDING FOR A STATUTORY APPROPRIATION; CREATING STATE SPECIAL REVENUE ACCOUNTS; TEMPORARILY EXPANDING USAGE OF STATE PARK FUNDS; AMENDING SECTIONS 15-35-108, 17-7-502, 61-3-321, 75-10-743, 81-2-102, 85-1-615, AND 90-6-1001, MCA; AMENDING SECTION 3, CHAPTER 115, LAWS OF 2017; AMENDING SECTION 11, CHAPTER 400, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fund transfers. (1) By August 15, 2017, the state treasurer shall make the following transfers from the oil and gas production damage mitigation account:

(a) \$30,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283; and

(b) \$165,000 to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(2) By August 15, 2017, the state treasurer shall transfer \$120,000 from the water storage state special revenue account established in 85-1-631 to the ground water assessment state special revenue account provided for in 85-2-905.

Section 2. Fund transfer. By [10 days after the effective date of this section], the state treasurer shall transfer \$2 million from the account provided for in 75-10-532 for junk vehicles to the natural resources operations state special revenue account established in 15-38-301.

Section 3. Supplemental state contribution – appropriation. (1) (a) For the fiscal year beginning July 1, 2017, the state shall contribute \$31.386 million and for the fiscal year beginning July 1, 2018, the state shall contribute \$31.958 million from the general fund to the public employees' retirement system pension trust as a supplemental contribution to the public employees' retirement system.

(b) Starting in the fiscal year beginning July 1, 2019, the state shall contribute from the general fund to the public employees' retirement system pension trust 101% of the contribution from the previous years as a supplemental contribution to the public employees' retirement system.

(c) The 69th legislature shall review the performance of subsection (1)(b) and make recommendations for adjustments as needed.

(2) This contribution is statutorily appropriated, as provided in 17-7-502, from the general fund to the pension trust fund.

Section 4. Animal health account – enterprise fund account for laboratory services. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the animal health account. All fees collected by the department related to animal health, except those received pursuant to 81-2-102(1)(c), must be deposited in the account to be used for animal health functions of the department.

(2) (a) There is an account of the enterprise fund type, as defined in 17-2-102(2)(a), to the credit of the department for the use of the laboratory functions of the department.

(b) Gross revenue from the collection of fees for services rendered pursuant to 81-2-102(1)(c) must be deposited in the account.

(c) All interest and earnings on money deposited in the account must be credited to the account and used for the laboratory functions of the department.

Section 5. Basic library services account. There is a basic library services account in the state special revenue fund established by 17-2-102 to be administered by the state library for providing basic library services.

Section 6. Conservation district account. There is a conservation district account in the state special revenue fund established by 17-2-102 to be administered by the department of natural resources and conservation for providing funding for conservation districts.

Section 7. Growth through agriculture account. There is a growth through agriculture account in the state special revenue fund established by 17-2-102 to be administered by the department of agriculture for providing funding for the growth through agriculture program.

Section 8. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~5.46%~~ *0.85% in fiscal year 2018 and 0.88% in fiscal year 2019* must be credited to an account in the state special revenue fund ~~to be allocated by the legislature~~ for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking *and must be deposited in the basic library services account established in [section 5];*.

(4) *The amount of 3.89% in fiscal year 2018 and 3.83% in fiscal year 2019 must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in [section 6]; and.*

(5) *The amount of 0.72% in fiscal year 2018 and 0.75% in fiscal year 2019 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in [section 7]. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.*

(4)(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5)(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6)(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7)(9) The amount of 5.8% through June 30, 2017, and beginning July 1, 2017, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8)(10) After the allocations are made under subsections (2) through (7) (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9)(11) (a) Subject to subsection (9)(b) (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state ~~and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.~~

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement; and

(iv) except as provided in subsection (9)(c), up to \$21 million to the public employees' retirement system defined benefit plan trust fund.

~~(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b)(iv) subject to legislative approval. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)~~

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~5.46%~~ *0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter* must be ~~credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in [section 5].~~

(4) *The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in [section 6]; and.*

(5) *The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in [section 7]. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.*

(4)(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5)(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6)(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7)(9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8)(10) After the allocations are made under subsections (2) through (7) (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

~~(9)(11) (a) Subject to subsection (9)(b), all All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state, and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.~~

~~(b) Except as provided in subsection (9)(c), up to \$24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.~~

~~(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."~~

Section 9. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; [section 3]; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3

and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)”

Section 10. Section 61-3-321, MCA, is amended to read:

“61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- (a) if the vehicle is 4 or less years old, \$217;
- (b) if the vehicle is 5 through 10 years old, \$87; and
- (c) if the vehicle is 11 or more years old, \$28.

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (a) if the declared weight is less than 6,000 pounds, \$61.25; or
- (b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector’s items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees

imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks *or as otherwise appropriated by the legislature*, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration

fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.”

Section 11. Section 75-10-743, MCA, is amended to read:

“75-10-743. Orphan share state special revenue account – reimbursement of claims – payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and, except as provided in subsections (9), (10), and (11), must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-751, *to provide funding for the department of justice for investigations pursuant to its natural resource damage program*, to pay costs incurred by the department in defending the orphan share, and to pay remedial action costs incurred by the department pursuant to subsection (12). *Any amounts provided for investigations must be returned to the account, with interest, from the settlement proceeds of a claim made under the natural resource damage program within 30 days of receiving settlement proceeds.*

(2) There must be deposited in the orphan share account:

- (a) all penalties assessed pursuant to 75-10-750(12);
- (b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;
- (c) unencumbered funds remaining in the abandoned mines state special revenue account;
- (d) interest income on the account;
- (e) funds received from settlements pursuant to 75-10-719(7); and
- (f) funds received from reimbursement of the department’s orphan share defense costs pursuant to subsection (6).

(3) If the orphan share account contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share account does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share account, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share account does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share account until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Except as provided in subsection (6), reimbursement from the orphan share account must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department’s costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share account is responsible for a portion of the department’s costs incurred in defending the orphan share in proportion to the orphan share’s allocated share, as follows:

(i) If sufficient funds are available in the orphan share account, the department’s costs incurred in defending the orphan share must be paid from

the orphan share account in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share account, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share account and must be reimbursed as provided in subsection (3).

(c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share account and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs. The agency may be reimbursed only after:

(i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent jurisdiction;

(ii) it has received a notice letter pursuant to 75-10-711; and

(iii) the department has approved the costs.

(7) (a) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(b) The department may reimburse claims from a lead liable person upon completion and department approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable person for the preparation of the reports.

(8) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share account for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process.

(9) (a) For the biennium beginning July 1, 2005, up to \$1.25 million may be used by the department to pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than \$1.25 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the \$1.25 million from potentially liable persons.

(b) The money spent pursuant to subsection (9)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent.

(10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 \$1.2 million in each fiscal year until the board of investments makes the certification pursuant to subsection (10)(b) of this section.

(b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water treatment permanent trust fund will be sufficient, with future earnings, to provide a fund balance of \$19.3 million on January 1, 2018.

(ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board of investments shall notify the department and certify to the department the amount of money, if any, that must be transferred during the fiscal year in which the board of investments makes its determination pursuant to subsection (10)(b)(i) in order to provide a fund balance of \$19.3 million on January 1, 2018.

(iii) In the fiscal year that the board of investments makes its determination and notifies the department, the department shall transfer only the amount certified by the board of investments, if any, and may not make additional transfers during subsequent fiscal years.

(c) After July 1, 2018, the department shall transfer \$1.2 million in each fiscal year from the orphan share state special revenue account to the environmental quality protection fund provided in 75-10-704.

(11) The orphan share account is subject to legislative fund transfers.

(12) Except as provided in subsection (13), the department may use the orphan share account to:

(a) take remedial action at a facility where there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment and there is no readily apparent person who is financially viable and potentially liable under 75-10-715 to conduct the remedial action; or

(b) fund the administration of data collection, the monitoring of the performance of remedial action, and the initial assessment of a facility to determine whether that facility may be closed or delisted.

(13) The department may not use for data collection, initial assessments, or monitoring pursuant to subsection (12)(b) more than 20% of the funds appropriated from the orphan share account for the bienniums beginning July 1, 2015, and ending June 30, 2025. For the bienniums beginning July 1, 2025, no more than 15% of the funds appropriated from the orphan share account may be used for data collection, initial assessments, or monitoring pursuant to subsection (12)(b).

(14) On or before July 1 of each year, the department shall report to the environmental quality council the amount of funds from the orphan share account used pursuant to subsection (12), the type of expenditures made, and the identity and location of facilities addressed. (Subsection (10)(c) terminates June 30, 2027--sec. 5, Ch. 387, L. 2015.)"

Section 12. Section 81-2-102, MCA, is amended to read:

"81-2-102. Powers of department. (1) The department may:

(a) supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state that is or may be used or occupied by livestock and that in the judgment of the department is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or disease-carrying medium by which the disease may be communicated. The department may quarantine livestock in this state when the livestock is affected with or has been exposed to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules

that are necessary and proper to circumscribe, extirpate, control, or prevent the disease.

(b) foster, promote, and protect the livestock industry in this state by the investigation of diseases and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the care of livestock and its products and to this end may establish and maintain a laboratory, may make or cause to be made biologic products, curatives, and preventative agents, and may perform any other acts and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry in this state;

(c) impose and collect fees that the department considers appropriate for the tests and services performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents made or caused to be made by the department. In fixing these fees, the department shall take into consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents. All fees must be deposited in the ~~state special revenue enterprise fund account established in [section 4]~~ for the use of the animal ~~health laboratory~~ functions of the department.

(d) subject to subsection (2), adopt rules and orders that it considers necessary or proper to prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock and alternative livestock in this state;

(e) (i) adopt rules and orders that it considers necessary or proper for the inspection, testing, and quarantine of all livestock and alternative livestock imported into this state; and

(ii) adopt rules and orders that it considers necessary or proper governing inspections and tests of livestock and alternative livestock intended for importation into this state to prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock and alternative livestock;

(f) adopt rules and orders that it considers necessary or proper for the supervision, inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other places and premises where meat or meat foods, milk or its products, or any byproducts thereof intended for sale or consumption as food are produced, kept, handled, or stored. An authorized representative of the department may take samples of a product so produced, kept, handled, or stored for analysis or testing by the department. The records of the samples and their analysis and test, when identified as to the sample by the oath of the officer taking it and verified as to the analysis or test by the oath of the chemist or bacteriologist making it, are prima facie evidence of the facts set forth in them when offered in evidence in a prosecution or action at law or in equity for violation of 81-9-201, 81-20-101, 81-21-102, 81-21-103, part 1, 2, or 3 of this chapter, or a rule or order of the board adopted thereunder. These standards, insofar as they relate to dairies or milk and its byproducts, may not include standards of weight or measurement.

(g) adopt rules and orders that seem necessary or proper for the supervision and control of manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable, the standards approved by the United States department of agriculture must be adopted.

(h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 that must provide

ways and means for shipping home-grown and home-killed meats into any city in this state. As far as practicable, the rules must conform with the meat-inspection requirements of the United States department of agriculture.

(i) slaughter or cause to be slaughtered any livestock in this state known to be affected with or that has been exposed to an infectious, contagious, communicable, or dangerous disease, when the slaughter is necessary for the protection of other livestock, and destroy or cause to be destroyed all barns, stables, sheds, outbuildings, fixtures, furniture, or personal property infected with any infectious, contagious, communicable, or dangerous disease when they cannot be thoroughly cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease;

(j) indemnify the owner of any property destroyed by order of the department or pursuant to any rules adopted by the department under 81-20-101, 81-21-102, 81-21-103, or part 1, 2, or 3 of this chapter;

(k) require persons, firms, and corporations engaged in the production or handling of meat, meat food products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of the food and food products produced or handled and the name and address of persons supplying them any of the products.

(2) (a) As used in subsection (1)(d), "order" means a command, direction, or instruction issued by the department, board, or board's administrator in circumstances that clearly constitute an existing imminent peril to the public health, safety, or welfare or to animal health or welfare.

(b) An order under subsection (1)(d) may last no more than 5 years and may be altered or rescinded as necessary to address the circumstances set out in subsection (1)(d). An order may not be used to create a permanent program.

(c) As used in subsection (2)(b), "program" means a legislatively or administratively created function, project, or duty of an agency.

(3) When in the exercise of its powers or the discharge of its duties it becomes necessary for employees of the department to investigate facts and conditions, they may administer oaths, take affidavits, and compel the attendance and testimony of witnesses."

Section 13. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests – purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the natural resources projects state special revenue account established in 15-38-302 or the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real property, shares of stock in a water users' association, revenue of a water users' association, accounts receivable of a water users' association, water purchase agreements, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 15-38-301, 85-1-603, or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and that the prospects for collecting the loan may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in subsection (2)(b).

(3) Any property acquired under the provisions of this section must be resold as expeditiously as possible to recover funds used under this section and funds loaned to the borrower."

Section 14. Section 90-6-1001, MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource accounts. (1) There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from 15-36-304(7)(b) must be deposited in the account to be used as provided in 15-36-332(7) and (8).

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from ~~15-35-108(7)~~ 15-35-108(9) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

Section 15. Section 3, Chapter 115, Laws of 2017, is amended to read:

"Section 3. Recommendations to reduce expenditures. (1) Except as provided in subsection (4), the budget director, taking into account the criteria provided in subsection (2), shall mandate reductions to agency expenditures of at least \$10 million for the biennium ending June 30, 2017.

(2) Prior to mandating reductions, the budget director shall consider whether an agency program is mandatory or permissive and analyze the impact of the proposed reduction in spending on the purpose of the program. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(3) The budget director shall submit an itemized list of mandated reductions to the 65th legislature by March 22, 2017.

(4) The budget director may not mandate reductions in spending for the following:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education; and
- (e) salaries of elected officials during their terms of office;
- (f) *the department of justice;*
- (g) *the secretary of state;*
- (h) *the office of public instruction;*
- (i) *the public service commission; and*
- (j) *the state auditor's office."*

Section 16. Reductions to appropriations for fiscal year 2017. The following appropriations for fiscal year 2017, as enacted in House Bill No. 2 in Ch. 400, Laws of 2015, are reduced as follows, is amended to read:

“Department of Justice

Agency Legal Services from \$6,995,799 in general fund to \$6,870,799.

Office of Public Instruction

School Facility Reimbursement from \$8,586,000 in state special revenue to \$0.”

Section 17. Codification instruction. (1) [Section 3] is intended to be codified as an integral part of Title 19, chapter 3, part 3, and the provisions of Title 19, chapter 3, part 3, apply to [section 3].

(2) [Section 4] is intended to be codified as an integral part of Title 81, chapter 2, part 1, and the provisions of Title 81, chapter 2, part 1, apply to [section 4].

(3) [Section 5] is intended to be codified as an integral part of Title 22, chapter 1, part 2, and the provisions of Title 22, chapter 1, part 2, apply to [section 5].

(4) [Section 6] is intended to be codified as an integral part of Title 76, chapter 15, part 1, and the provisions of Title 76, chapter 15, part 1, apply to [section 6].

(5) [Section 7] is intended to be codified as an integral part of Title 90, chapter 9, part 1, and the provisions of Title 90, chapter 9, part 1, apply to [section 7].

Section 18. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved and if House Bill No. 2 does not contain a restricted appropriation to the department of administration for the supplemental state contribution referenced in [section 3] in the amount of \$1,649,000 in the fiscal year beginning July 1, 2017, and \$1,657,000 in the fiscal year beginning July 1, 2018, the amount of the contribution in [section 3(1)(a) of this act] is increased by \$1,649,000 in the fiscal year beginning July 1, 2017, and by \$1,657,000 in the fiscal year beginning July 1, 2018.

Section 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 20. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Sections 2, 10, and 15] and this section are effective on passage and approval.

Section 21. Termination. [Section 10] terminates June 30, 2019.

Approved May 7, 2017

CHAPTER NO. 352

[HB 661]

AN ACT PROVIDING FOR A LEGISLATIVE STUDY OF STATE LABS AT MONTANA STATE UNIVERSITY-BOZEMAN; PROVIDING PARAMETERS AND OUTCOMES FOR THE STUDY; SPECIFYING MEMBERS AND DUTIES; PROVIDING FOR FUND TRANSFERS AND AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative study of state labs at Montana state university-Bozeman. (1) The legislative finance committee shall direct a study of the long-term future of and possible efficiencies to be gained from

state-supported labs on the Montana state university campus in Bozeman, including:

- (a) the veterinary diagnostic lab;
- (b) the wool lab;
- (c) the wildlife lab; and
- (d) the seed lab.

(2) (a) The study analysis must be conducted by a bipartisan subcommittee consisting of the following:

(i) two members of the legislative finance committee, with one member from each political party;

(ii) two members of the economic affairs interim committee, with one member from each political party; and

(iii) two members of the environmental quality council, with one member from each political party.

(b) The committees and the environmental quality council shall elect their representatives to serve on the subcommittee.

(3) The subcommittee shall develop and analyze at least three economically viable proposals for each lab identified in subsection (1), including:

(a) necessary infrastructural changes and upgrades, their costs, and potential funding sources;

(b) organizational changes and any financial efficiencies they would create; and

(c) statutory changes needed to facilitate proposed infrastructural or organizational changes.

(4) Subject to direction provided by the legislative finance committee, the study may include but is not limited to:

(a) onsite visits to the labs and interviews with relevant state and university personnel;

(b) comparison with labs in other states that provide similar services, including North Dakota, South Dakota, Wyoming, Washington, Texas, and California;

(c) onsite visits to labs in other states; and

(d) comparison with labs that provide services unrelated to natural resources.

(5) The subcommittee may work with engineering and architectural consultants as needed.

(6) The appropriation provided for [section 3] may be used for any purpose of the study, including but not limited to:

(a) conducting onsite lab visits;

(b) contracting with consultants pursuant to subsection (5);

(c) providing study-related training for legislators and legislative staff; and

(d) publication and communication costs.

Section 2. Fund transfers. By July 5, 2017, the state treasurer shall make the following transfers to a state special revenue account to be administered by the legislative fiscal division:

(1) \$16,500 from the animal health state special revenue account;

(2) \$16,500 from per capita fees;

(3) \$16,500 from the Montana university system research director account; and

(4) \$11,750 from the motorboat account.

Section 3. Appropriation. (1) There is appropriated \$61,250 for the biennium beginning July 1, 2017, to the legislative fiscal division from the state special revenue account administered by the legislative fiscal division for the purposes of the study as set forth in [section 1].

(2) By December 15, 2018, the state treasurer shall transfer any unencumbered or unexpended funds in the state special revenue account referenced in subsection (1) on November 30, 2018, back to the accounts from which the funds were transferred pursuant to [section 2] in an amount proportionate to the amount transferred from the accounts.

Section 4. Contingent voidness. (1) If [this act] is passed and approved and does not contain an appropriation, [this act] is void.

(2) If the appropriation in [this act] is vetoed, then [this act] is void.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 2 and 3] are effective July 1, 2017.

Section 6. Termination. [This act] terminates December 31, 2018.

Approved May 7, 2017

CHAPTER NO. 353

[HB 11]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS ON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PROJECTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PLANNING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for treasure state endowment program grants. (1) There is appropriated to the department of commerce \$15,925,000 for the biennium beginning July 1, 2017, from the treasure state endowment state special revenue account to finance treasure state endowment program grants authorized by subsection (2).

(2) The following applicants and projects are authorized for grants and listed in the order of their priority:

Other Infrastructure Applicant (project type)	Grant Amount
1. Sanders County Sewer District (wastewater)	\$750,000
2. Beaverhead County Jackson Water and Sewer District (water)	\$294,000
3. Denton, Town of (water)	\$625,000
4. Helena, City of (wastewater)	\$750,000
5. Absarokee Water and Sewer District (water)	\$500,000
6. Medicine Lake, Town of (wastewater)	\$625,000
7. Froid, Town of (wastewater)	\$750,000
8. Cut Bank, City of (water)	\$750,000
9. Eureka, Town of (wastewater)	\$555,000

10. Nine Mile Water and Sewer District (water)	\$750,000
11. South Wind Water and Sewer District (water and wastewater)	\$750,000
12. Livingston, City of (wastewater)	\$625,000
13. Townsend, City of (wastewater)	\$625,000
14. Scobey, City of (water)	\$500,000
15. Manhattan, Town of (wastewater)	\$611,800
16. Stanford, Town of (water)	\$500,000
17. Hot Springs, Town of (water)	\$478,632
18. Sheridan, Town of (water)	\$625,000
19. Simms County Sewer District (wastewater)	\$750,000
20. Circle, Town of (water)	\$625,000
21. Lockwood Water and Sewer District (water)	\$625,000
22. Harlowton, City of (water)	\$750,000
23. Cascade, Town of (wastewater)	\$500,000
24. Shelby, City of (water)	\$750,000
25. Dutton, Town of (water)	\$500,000
26. Butte-Silver Bow (wastewater)	\$349,286
27. Winifred, Town of (water)	\$500,000
28. Ryegate, Town of (wastewater)	\$500,000
29. Whitefish, City of (wastewater)	\$750,000
30. Glendive, City of (wastewater)	\$625,000
31. Neihart, Town of (water)	\$500,000
32. Thompson Falls, City of (water)	\$625,000
33. Chinook, City of (water)	\$625,000
34. Malta, City of (water)	\$500,000
35. Sanders County (stormwater)	\$625,000
36. Bigfork County Water and Sewer District (water)	\$500,000
37. Roundup, City of (water)	\$500,000
38. Conrad, City of (water)	\$500,000
39. Fort Benton, City of (water)	\$500,000
40. Laurel, City of (water)	\$500,000
41. Poplar, City of (wastewater)	\$750,000
42. Lincoln Lewis and Clark Co. Sewer District (wastewater)	\$280,000
43. Jordan, Town of (wastewater)	\$500,000
44. Judith Gap, Town of (wastewater)	\$125,000

(3) (a) Funding for the projects numbered 1 through 26 in subsection (2) will be provided up to the amount of the appropriation in subsection (1) as projects meet the conditions provided in [section 3].

(b) Projects numbered 27 through 29 listed in subsection (2) that have satisfied the conditions described in [section 3] may receive grant funds only if one or more of the applicants for projects numbered 1 through 26 have terminated their request for award funds in writing prior to the end of the biennium ending June 30, 2019.

(4) There is appropriated to the department of commerce \$3,747,151 for the biennium beginning July 1, 2017, from the treasure state endowment state special revenue account to finance treasure state endowment program grants authorized by subsection (5) as projects meet the conditions provided in [section 3].

(5) The following applicants and projects are authorized for grants and listed in the order of their priority:

Bridge Applicant	Grant Amount
1. Missoula County	\$500,000
2. Park County	\$107,957

3. Madison County	\$237,284
4. Prairie County	\$160,000
5. Gallatin County	\$684,800
6. Carbon County	\$750,000
7. Lewis and Clark County	\$309,985
8. Judith Basin County	\$247,125
9. Powell County	\$750,000
10. Yellowstone County	\$310,914
11. Jefferson County	\$197,412
12. Ravalli County	\$133,143
13. Stillwater County	\$500,000
14. Blaine County	\$389,739
15. Big Horn County	\$473,455

(6) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsections (2) and (5) for purposes of encumbering both treasure state endowment state special revenue account funds and state and local infrastructure account funds for the biennium beginning July 1, 2017, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3] and on the availability of funds.

(7) Funding for projects in subsections (2) and (5) that are not fully funded by funds from the treasure state endowment state special revenue account will be provided only as long as there are sufficient funds available from the amount that was deposited into the state and local infrastructure account. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 3]. However, any of the projects listed in subsections (2) and (5) that have not completed the conditions described in [section 3] by September 30, 2018, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(8) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsections (2) and (5) for the described purposes and in amounts not to exceed the amounts set out in subsections (2) and (5). The grants authorized in this section are subject to the conditions set forth in [section 3] and described in the treasure state endowment program 2019 biennium report to the 65th legislature. The department shall commit funds to projects listed in subsections (2) and (5), up to the amounts authorized, based on the manner of and subject to the limitations on disbursement set forth in [section 3] until the funds deposited into the treasure state endowment state special revenue account and the state and local infrastructure account are expended.

(9) Grant recipients shall complete all of the conditions described in [section 3] by September 30, 2020, or any obligation to the grant recipient is void.

Section 2. Approval of grants—completion of biennial appropriation.

(1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [sections 1(2) and 1(5)], the emergency infrastructure projects in [section 5], and for the infrastructure planning grants in [section 6].

(2) The authorization of these grants constitutes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(3)(c).

(3) Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 3. Condition of grants -- disbursements of funds. (1) The disbursement of grant funds for the projects specified in [sections 1(2) and 1(5)] is subject to completion of the following conditions:

(a) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department of commerce.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.

(d) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2019 biennium report to the 65th legislature.

(e) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(f) The grant recipient shall execute a grant agreement with the department of commerce.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the Treasure State Endowment Program Project Administration Manual adopted by the department through the administrative rulemaking process.

Section 4. Other powers and duties of department. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the use of the remaining authorized grant amounts for the construction of additional infrastructure components directly related to the approved project that will further enhance the overall system; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

Section 5. Appropriations from treasure state endowment state special revenue account for emergency grants. There is appropriated

to the department of commerce \$100,000 for the biennium beginning July 1, 2017, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

Section 6. Appropriations from treasure state endowment state special revenue account for infrastructure planning grants. There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2017, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with infrastructure planning grants for infrastructure projects, as defined in 90-6-701.

Section 7. Appropriation from treasure state endowment regional water system special revenue account. (1) There is appropriated \$4,943,389 to the department of natural resources and conservation for the biennium beginning July 1, 2017, from the treasure state endowment regional water system special revenue account to finance the state's share of regional water system projects authorized in subsection (2) and as set forth in 90-6-715.

(2) Montana's four regional water authorities are authorized to receive the funds appropriated in subsection (1) as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment regional water system special revenue account during the biennium beginning July 1, 2017.

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 9(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the biennium beginning July 1, 2017, under 17-7-302.

Section 8. Approval of funds – completion of appropriation. (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 7(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(d).

Section 9. Conditions – manner of disbursements of funds. (1) The disbursement of funds under [sections 7 and 8] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 11. Coordination instruction. (1) If both [this act] and an act that provides additional funding for treasure state endowment program grants

from bond proceeds are passed and approved, the projects listed in [sections 1(2) and 1(5) of this act] that do not receive funding from the appropriations in [sections 1(1) and 1(4) of this act] may receive funding from the appropriation in the other act designated for treasure state endowment program grants in the order of completion of the conditions of [section 3 of this act] and to the extent that there is appropriation authority available.

(2) If both [this act] and an act that provides additional funding for treasure state endowment program grants from bonding proceeds are passed and approved, [section 1(3)(b) of this act] is void.

Section 12. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 354

[HB 6]

AN ACT IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for renewable resource grants. (1) For the biennium beginning July 1, 2017, there is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 up to:

(a) \$100,000 for emergency projects to be awarded by the department over the course of the biennium;

(b) \$800,000 for planning grants to be awarded by the department over the course of the biennium;

(c) \$300,000 for irrigation development grants to be awarded by the department over the course of the biennium;

(d) \$300,000 for watershed grants to be awarded by the department over the course of the biennium; and

(e) \$50,000 for private grants to be awarded by the department over the course of the biennium.

(2) The amount of \$3,231,640 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account, established in 15-38-302, for grants to political subdivisions and local governments for the biennium beginning July 1, 2017. The funds referred to in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts listed in subsection (4), subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the renewable resource grant and loan program January 2017 report to the 65th legislature.

(3) Funds must be awarded up to the amounts approved in subsection (4) in the following listed order of priority until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. If at any time a grant sponsor determines that a project will not begin before June 30, 2019, the sponsor shall notify the department of natural resources and

conservation. After all eligible projects are funded, remaining funds may be used for any renewable resource project authorized under this section.

(4) The following are the prioritized grant projects:

RENEWABLE RESOURCE GRANT AND LOAN PROGRAM

Applicant/Project	Amount
Helena Valley Irrigation District (Gate Automation)	\$125,000
Granite County (Flint Creek Dam Resource Enhancement)	\$125,000
Bozeman, City of (Sunset Hills Cemetery and Lindley Park Water Conservation)	\$125,000
Medicine Lake, Town of (Wastewater System Improvements)	\$125,000
Ward Irrigation District (Canal Intake Improvements)	\$125,000
Sweet Grass County Conservation District (Boe-Engle Ditch Diversion Infrastructure Improvements)	\$106,640
Beaverhead Conservation District (Poindexter Slough Fishery Enhancement, Phase 3)	\$125,000
Crow Tribe of Indians (Wastewater Collection System Improvement, Phase 3)	\$125,000
Stillwater Conservation District (Yanzick/Brey-Riddle Ditches Irrigation System Improvements)	\$125,000
Lewis and Clark County Sewer District (Wastewater System Improvements)	\$125,000
Froid, Town of (Wastewater System Improvements)	\$125,000
Townsend, City of (Wastewater System Improvements)	\$125,000
South Wind Water and Sewer District (Water and Wastewater System Improvements, Phase 3)	\$125,000
Poplar, City of (Wastewater System Improvements)	\$125,000
Lower Yellowstone Irrigation Project (Lateral O Check and Terminal Wasteway Rehabilitation)	\$125,000
Stillwater County - Absarokee Sewer Rural Special Improvement District (Wastewater System Improvements)	\$125,000
Ryegate, Town of (Wastewater System Improvements)	\$125,000
Huntley Project Irrigation District (Lower Main Canal Lining, Phase 2)	\$125,000
Helena Valley Irrigation District (Lateral 14.8 Rehabilitation, Phase 1)	\$125,000
Broadwater Conservation District (Big Springs Ditch Water Conservation, Phase 2)	\$125,000
Thompson Falls, City of (Wastewater System Improvements)	\$125,000
Pondera County Conservation District (Pondera County Canal & Reservoir Company KB2 Canal Rehabilitation)	\$125,000
Malta Irrigation District (Exeter Siphon Replacement)	\$125,000

Sidney Water User Irrigation District (Main Canal Pipeline Conversion)	\$125,000
Buffalo Rapids Irrigation District 2 (Shirley Main Canal Rehabilitation)	\$125,000
Fort Shaw Irrigation District (D-System Water Conservation)	\$125,000
Cascade, Town of (Wastewater System Improvements)	\$125,000
Helena, City of (Westside Wastewater System Improvements)	\$125,000
Eureka, Town of (Wastewater Expansion and Improvement, Phase 1B)	\$100,000
Whitefish, City of (Wastewater System Improvements)	\$125,000
Black Eagle - Cascade County Water and Sewer District (Sewer Main Slip Lining)	\$125,000
Thompson Falls, City of (Water System Improvements)	\$125,000
Dutton, Town of (Water System Improvements)	\$125,000
Fallon County (Baker Lake Restoration)	\$100,000
Madison County (Big Hole Streambank Rehabilitation)	\$125,000
Glen Lake Irrigation District (Costich Drop Rehabilitation, Phase 1)	\$125,000
Harlowton, City of (Water System Improvements, Phase 4)	\$125,000
Alberton, Town of (Water System Improvements)	\$125,000
Buffalo Rapids Irrigation District 1 (Lateral 20.6 Pipeline Conversion, Phase 2)	\$125,000
Chouteau County Conservation District (Ranching for Rivers: Cost Share to Landowners for Infrastructure Improvements for Grazing Management on the Missouri River)	\$125,000
Judith Gap, Town of (Wastewater System Improvements, Phase 2)	\$125,000
Flathead Conservation District (Krause Creek Restoration)	\$116,000
Sanders County Sewer District at Paradise (Wastewater System Improvements)	\$125,000
Jefferson County (Jefferson Slough Eurasian Watermilfoil Control)	\$96,530
Huntley Project Irrigation District (Tunnel 2 - Discharge Line Rehabilitation)	\$125,000
Simms County Sewer District (Wastewater System Improvements)	\$125,000
Cut Bank, City of (Water System Improvements)	\$125,000
MT DNRC-Water Resources Division (Flint Creek Water Project- Allendale Canal Intake & Fish Screen)	\$125,000

Sheridan, Town of (Water System Improvements)	\$125,000
Fort Peck Tribes (Lateral L-42M Rehabilitation, Phase 1)	\$125,000
Toston Irrigation District (Main Canal Rehabilitation)	\$125,000
Laurel, City of (Water System Improvements)	\$125,000
Clinton Irrigation District (Main Canal Wasteway Rehabilitation and Intake Canal Improvements)	\$125,000
Tin Cup Water and Sewer District (Water Conservation)	\$125,000
Jordan, Town of (Wastewater System Improvements)	\$125,000
Lincoln County (Ksanka Creek Restoration - Highway 93 to Osloski Road)	\$125,000
Manhattan, Town of (Wastewater System Improvements)	\$125,000
Lower Musselshell Conservation District (Musselshell River Channel Migration Zone Mapping)	\$125,000
Shelby, City of (Water System Improvements)	\$125,000
MT DNRC-Water Resources Division (Broadwater Missouri Canal System Study and Masterplan)	\$100,000
MT DNRC-Water Resources Division (East Fork Rock Creek Main Canal Lining)	\$125,000
Roundup, City of (Water System Improvements)	\$125,000
Custer County (Custer County Miles City Flood Control)	\$125,000
Scobey, City of (Water System Improvements)	\$125,000
Wilsall Water District (Water System Improvements)	\$125,000
Hot Springs, Town of (Water System Improvements)	\$125,000
Winifred, Town of (Water System Improvements)	\$125,000
MT DNRC-Water Resources Division (Nevada Creek Water Project - Douglas Canal Lining Replacement)	\$125,000
Denton, Town of (Water System Improvements)	\$125,000
Fort Benton, City of (Water System Improvements)	\$125,000
Absarokee Water and Sewer District (Water System Improvements)	\$125,000
Hysham Irrigation District (Re-Lift Canal Improvement)	\$125,000
Deer Lodge, City of (Municipal Well Replacement)	\$125,000
Flathead Conservation District (Whitefish Water Treatment Plan and Resource Optimization)	\$86,000

Toole County Conservation District (Eagle Aquifer Evaluation, North-Central Montana)	\$116,230
Missoula County (Sunset West Water System Improvements)	\$125,000
Gallatin Local Water Quality District (Bridger Range Front Hydrogeologic Investigation)	\$125,000
Missoula, City of (Restoration and Migration of Public Access Damage - Clark Fork River, Phase 1)	\$125,000
Circle, Town of (Water System Improvements)	\$125,000
Stanford, Town of (Water System Improvements)	\$125,000
West Great Falls Flood Control & Drainage District (Riverbank Erosion Rehabilitation and Repairs)	\$125,000
Nine Mile Water and Sewer District (Water System Improvements)	\$125,000
MT Bureau of Mines and Geology - MT Tech (Irrigation Efficiencies and Domestic Groundwater Supplies)	\$125,000
Brady County Water and Sewer District (Water System Improvements)	\$109,400
Bigfork County Water and Sewer District (Water Storage and Distribution Improvements)	\$125,000
Chinook, City of (Water System Upgrades)	\$125,000
Lockwood Irrigation District (Pump Station Rehabilitation)	\$125,000
RAE County Water and Sewer District (Falcon Hollow #2 Well)	\$125,000
Malta, City of (Water System Improvements)	\$125,000
Lockwood Water and Sewer District (Water System Improvements)	\$125,000
Ekalaka, Town of (Flood Study)	\$125,000
Conrad, City of (Water System Improvement)	\$125,000
Sweet Grass County Conservation District (Yellowstone River Channel Stabilization and Surface Water Protection, Phase 2)	\$125,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1(4)] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Conditions of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 65th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2019, or, in the case of planning grants issued under [section 1(1)], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Appropriations established. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 5. Approval of grants -- completion of biennial appropriation. The legislature, pursuant to 85-1-605, approves the renewable resource programs grants listed in [section 1]. The authorization of these grants constitutes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Coordination instruction. If both [this act] and an act that provides additional funding for renewable resource grants from bond proceeds are passed and approved, the projects listed in [section 1(4)] that do not receive funding from the appropriation in [section 1(2)] may receive funding from the appropriation in the other act designated for renewable resource grants in the order of completion of the conditions of [section 3] and to the extent that there is appropriation authority available. The project applicant must complete the conditions of [section 3] by September 30, 2020, or any obligation to the project is void.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 355

[HB 7]

AN ACT IMPLEMENTING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for reclamation and development grants. (1) There is appropriated to the department of natural resources and

conservation from the natural resources projects state special revenue account established in 15-38-302 up to:

(a) \$800,000 for grants for planning reclamation and development projects to be awarded by the department over the course of the biennium; and

(b) \$500,000 to implement measures to control invasive aquatic species in state waters.

(2) The amount of \$4,079,129 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 for grants to political subdivisions and local governments during the biennium beginning July 1, 2017. The funds in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts set out in subsection (4) subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the reclamation and development grant program January 2017 report to the 65th legislature.

(3) Funds must be awarded up to the amounts approved in this section in the order of priority listed in subsection (4) until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. After all eligible projects are funded, remaining funds may be used for any reclamation and development project authorized under this section.

(4) The following are the prioritized grant projects:

Applicant/Project	Amount
Granite Conservation District (Flint Creek Watershed Metals Remediation - Fred Burr Creek, Rumsey Mill Tailings)	\$500,000
Montana Department of Environmental Quality (Tramway Creek Mine Reclamation Project)	\$432,500
Harlowton, City of (Removal of Contaminated Soils and Free Product at the Harlowton Roundhouse in Harlowton, MT)	\$300,000
Lewistown, City of (Cleanup of the Central Post and Treating Company in Lewistown, MT)	\$475,000
East Helena Public Schools (Dartman Field Reclamation Project)	\$500,000
Confederated Salish and Kootenai Tribes (Revais Creek Mine Tailings Reclamation)	\$302,074
Missoula County Community and Planning Services (Ninemile Creek Housem Placer Mine Reclamation)	\$420,000
Lincoln Conservation District (Tobacco River Restoration Project - Engineering and Implementation)	\$395,136
Richland County Conservation District (Mitigating Impacts to the Fox Hills/Hell Creek Aquifer, Richland County)	\$454,419
Montana Department of Environmental Quality (Upper Blackfoot Mining Complex - Wetland Connection)	\$300,000
Deer Lodge, City of (Milwaukee Roundhouse CECRA Site Passenger Refueling Area VCRA Program Remediation)	\$294,250
City and County of Butte-Silver Bow, Planning Department (Butte-Silver Bow Erosion Control and Vegetation Enhancement Program)	\$185,307

Fort Belknap Indian Community (Landusky Pit and Swift Gulch Capture Wells to Reduce Acid Mine Discharge to State Waters and the Fort Belknap Indian Reservation, Montana)	\$132,000
Montana Department of Environmental Quality (Basin Creek Mine - Phase 2 Site Stability Project)	\$300,000
Ruby Valley Conservation District (California Creek Mining Reclamation - Multi-Phase Stream and Floodplain Restoration)	\$62,625
Deer Lodge Valley Conservation District (Mt. Haggin Uplands Restoration Project)	\$74,405
Mile High Conservation District (Conifer Encroachment Reduction Project)	\$32,809
Deer Lodge Valley Conservation District (Oregon Creek Placer Mine Reclamation)	\$58,610
Roosevelt County (Kenco Refinery Cleanup)	\$275,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Conditions of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 65th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2019, or, in the case of planning grants issued under [section 1], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Other appropriations. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 5. Approval of grants -- completion of biennial appropriation. The legislature, pursuant to 90-2-1111, approves the reclamation and development grants listed in [section 1]. The authorization of these grants constitutes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Coordination instruction. If both [this act] and an act that provides additional funding for reclamation and development grants from bond proceeds are passed and approved, the projects listed in [section 1(4)] that do not receive funding from the appropriation in [section 1(2)] may receive funding from the appropriation in the other act designated for reclamation and development grants in the order of completion of the conditions of [section 3] and to the extent that there is appropriation authority available. The project applicant must complete the conditions of [section 3] by September 30, 2020, or any obligation to the project is void.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 356

[HB 9]

AN ACT ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation of cultural and aesthetic grant funds -- priority of disbursement. (1) The Montana arts council shall award grants for projects authorized by and limited to the amounts appropriated by [section 2] and this section. Money must be disbursed in priority order, first to projects covered under subsection (3) and second to projects listed in [section 2].

(2) The Montana arts council shall disburse money to projects authorized by [section 2] through grant contracts between the Montana arts council and the grant recipient. The award contract must bind the parties to conditions, if any, listed with the appropriation in [section 2].

(3) There is appropriated from the cultural and aesthetic projects trust fund account to the Montana historical society \$30,000 for the biennium ending June 30, 2019, for care and conservation of capitol complex artwork.

Section 2. Appropriation of cultural and aesthetic grant funds. The following projects are approved, and \$440,000 is appropriated to the Montana arts council for the biennium ending June 30, 2019, from the cultural and aesthetic projects trust fund account:

Grant #	Grantee	Amount
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A. Special Projects \$4,500 or Less

1906	Mai Wah Society Museum	\$4,500
1904	Council for the Arts, Lincoln	\$4,500
1903	Butte Citizens for Preserv. & Revitaliz.	\$4,500
1912	Upper Swan Valley Historical Society	\$4,500

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1907	Montana Chamber Music Society	\$4,500
1900	Alpine Artisans, Inc.	\$4,500
1908	Montana Flute Association	\$4,500
1911	Treasure County '89ers Inc.	\$3,500
1905	The Judith Mountain Players	\$3,500
1910	The Root & The Bloom Collective	\$3,000
1902	Billings Cultural Partners	\$2,000
1901	Arts & Above	\$2,000
B. Special Projects		
1920	Montana Preservation Alliance	\$10,000
1919	Montana Historical Society	\$10,000
1914	Emerson Center for the Arts & Culture	\$10,000
1916	Friends of Hist. Museum at Fort Missoula	\$4,000
1918	Helena Symphony	\$6,000
1917	HAVEN	\$6,000
1915	Friends of Big Sky Education DBA Warren Miller Performing Arts Center	\$3,500
C. Operational Support		
1958	Montana Shakespeare in the Parks	\$12,000
1923	Art Mobile of Montana	\$10,000
1927	Billings Symphony Society	\$10,000
1953	Montana Association of Symphony Orchestras	\$8,000
1959	Museums Association of Montana	\$8,000
1956	Montana Performing Arts Consortium	\$8,000
1947	MAGDA	\$8,000
1955	Montana Dance Arts Association	\$8,000
1952	Montana Arts	\$8,000
1948	MCT, Inc.	\$10,000
1957	Montana Repertory Theatre	\$10,000
1943	Humanities Montana	\$10,000
1922	Archie Bray Foundation	\$10,000
1946	Irwin & Florence Rosten Foundation	\$6,000
1921	Alberta Bair Theater	\$10,000
1932	Cohesion Dance Project	\$6,000
1980	Zootown Arts Community Center	\$6,000
1976	Western Heritage Center	\$6,000
1967	Ravalli County Museum	\$6,000
1963	Paris Gibson Square Museum of Art	\$6,000

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1940	Helena Presents/Myrna Loy Center	\$7,500
1937	Grandstreet Broadwater Productions	\$7,500
1979	Yellowstone Art Museum	\$7,500
1969	Schoolhouse History & Art Center	\$6,000
1961	Northwest Montana Historical Society	\$6,000
1972	Sunburst Foundation	\$4,500
1968	Rocky Mountain Ballet Theatre	\$4,500
1936	Glacier Symphony and Chorale	\$6,000
1977	Whitefish Theatre Co.	\$5,000
1942	Holter Museum of Art	\$5,000
1928	Butte Symphony Association	\$4,500
1978	World Museum of Mining	\$6,000
1926	Billings Preservation Society	\$6,000
1951	Missoula Writing Collaborative	\$6,000
1975	WaterWorks Art Museum	\$6,000
1950	Missoula Cultural Council/DBA Arts Missoula	\$5,000
1966	Queen City Ballet Company	\$4,500
1964	Pondera Arts Council	\$5,000
1931	Carbon County Historical Society	\$5,000
1938	Great Falls Symphony	\$5,000
1941	Hockaday Museum of Art	\$5,000
1971	Stillwater Historical Society	\$5,000
1974	Verge Theater	\$4,000
1970	Southwest Montana Arts Council	\$4,500
1973	The Extreme History Project	\$4,500
1944	Intermountain Opera Association	\$4,500
1954	Montana Ballet Company	\$4,000
1930	Carbon County Arts Guild & Depot Gallery	\$4,000
1949	Missoula Community Access Television	\$4,000
1933	Daly Mansion Preservation Trust	\$3,500
1939	Hamilton Players, Inc.	\$3,500
1960	North Valley Music School	\$3,500
1965	Pondera History Association (PHA)	\$3,000
1924	Big Horn Arts and Craft Association	\$3,000
1945	Int'l Wildlife Film Festival/The Roxy	\$2,500
1929	C.M. Russell Museum	\$2,500
1925	Bigfork Art and Cultural Center	\$2,000

D. Capital Expenditure

1981 City of Shelby Champions Park \$3,500

Section 3. Reversion of grant money. On July 1, 2019, the unencumbered balance of the grants for the biennium ending June 30, 2019, reverts to the cultural and aesthetic projects trust fund account provided for in 15-35-108.

Section 4. Changes to grants on pro rata basis. Except for the appropriation provided for in [section 1(3)], if the interest earnings for the cultural and aesthetic projects trust fund exceed the projections of \$475,500 in FY 2018 and \$470,800 in FY 2019, both the appropriation and the grants for the projects contained in [section 2] may be increased by the percent increase of the actual revenue. Increases to the grant amount may not exceed the amount of the original request. If money in the cultural and aesthetic projects trust fund account is insufficient to fund projects at the appropriation levels contained in [section 2], reductions to those projects with funding greater than \$2,000 must be made on a pro rata basis.

Section 5. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 357

[HB 44]

AN ACT GENERALLY REVISING LAWS RELATED TO DISTRICT COURT JUDGES; ADDING JUDGES TO CERTAIN JUDICIAL DISTRICTS; PROVIDING FOR THE APPOINTMENT AND ELECTION OF THE ADDITIONAL JUDGES; AMENDING SECTION 3-5-102, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-5-102, MCA, is amended to read:

“3-5-102. Number of judges. In each judicial district, there must be the following number of judges of the district court:

(1) in the 2nd, 7th, 16th, 20th, and 21st districts, two judges each;

(2) in the 18th district, three judges;

(3) in the 1st, 8th, and 11th districts, four judges;

~~(3)(4) in the 1st, 4th, 8th, and 11th districts, four judges each district, five judges;~~

~~(4)(5) in the 13th district, six eight judges;~~

~~(5)(6) in all other districts, one judge each.”~~

Section 2. Appointment and election of judges. (1) The additional judges for the 13th judicial district must be elected at the general election to be held in November 2018 for a 6-year term to begin January 2, 2019.

(2) The additional judge for the 4th judicial district must be appointed pursuant to the provisions of Title 3, chapter 1, part 10, to take office October 1, 2018 for a term ending December 31, 2020, and, if elected, a subsequent 6-year term to begin January 1, 2021.

Section 3. Contingent voidness. If House Bill No. 2 is passed and approved and if it does not provide funding for personal services and operating expenses to support the additional judges provided for in [this act], then [this act] is void.

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 358

[HB 77]

AN ACT GENERALLY REVISING THE STATE PUBLIC DEFENDER SYSTEM; PROVIDING FOR A DIRECTOR HIRED BY THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION TO BE THE HEAD OF THE OFFICE OF STATE PUBLIC DEFENDER; MAKING THE PUBLIC DEFENDER COMMISSION ADVISORY AND TEMPORARY; RENAMING CERTAIN POSITIONS; REVISING OR CLARIFYING CERTAIN FUNCTIONS AND SUPERVISORY DUTIES; REVISING EXEMPTIONS FROM THE STATE CLASSIFICATION AND PAY PLAN; ESTABLISHING A CENTRAL SERVICES DIVISION UNDER AN ADMINISTRATOR HIRED BY THE DIRECTOR; CONSOLIDATING ADMINISTRATIVE FUNCTIONS INTO THE CENTRAL SERVICES DIVISION; REQUIRING THAT THE DEPARTMENT OF ADMINISTRATION CONTINUE TO PROVIDE ADMINISTRATIVE SUPPORT; PROVIDING RULEMAKING AUTHORITY; REVISING THE ORDER OF STATUTES IN THE MONTANA PUBLIC DEFENDER ACT; AMENDING SECTIONS 2-15-1028, 2-18-103, 3-5-511, 3-5-604, 3-5-901, 5-5-228, 17-7-154, 26-2-506, 41-5-111, 41-5-1413, 42-2-405, 46-4-304, 46-8-101, 46-8-104, 46-15-115, 46-17-203, 46-21-111, 46-21-201, 47-1-103, 47-1-104, 47-1-105, 47-1-110, 47-1-111, 47-1-118, 47-1-201, 47-1-202, 47-1-205, 47-1-210, 47-1-215, 47-1-216, 50-20-509, 53-9-104, 53-20-112, 53-21-112, 53-21-116, 53-21-122, 53-24-302, 72-5-225, 72-5-234, 72-5-315, AND 72-5-408, MCA; REPEALING SECTION 2-15-1028, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Office of state public defender – head. There is an office of state public defender. The head of the office is a director. The director is hired by the director of the department of administration. The director is not subject to confirmation by the senate and may be removed by the director of the department of administration only for cause.

Section 2. Section 2-15-1028, MCA, is amended to read:

“2-15-1028. Public defender advisory commission. (1) There is a public defender *advisory* commission attached to the office of state public defender established in [section 1].

(2) The commission consists of 11 members appointed by the governor as follows:

(a) two attorneys from nominees submitted by the supreme court;

(b) three attorneys from nominees submitted by the president of the state bar of Montana, as follows:

(i) one attorney experienced in the defense of felonies who has served a minimum of 1 year as a full-time public defender;

(ii) one attorney experienced in the defense of juvenile delinquency and abuse and neglect cases involving the federal Indian Child Welfare Act; and

(iii) one attorney who represents criminal defense lawyers;

(c) two members of the general public who are not attorneys or judges, active or retired, as follows:

(i) one member from nominees submitted by the president of the senate; and

(ii) one member from nominees submitted by the speaker of the house;

(d) one person who is a member of an organization that advocates on behalf of indigent persons;

(e) one person who is a member of an organization that advocates on behalf of a racial minority population in Montana;

(f) one person who is a member of an organization that advocates on behalf of people with mental illness and developmental disabilities; and

(g) one person who is employed by an organization that provides addictive behavior counseling.

(3) A person appointed to the commission must have significant experience in the defense of criminal or other cases subject to the provisions of Title 47, chapter 1, or must have demonstrated a strong commitment to quality representation of indigent defendants.

(4) A vacancy on the commission must be filled in the same manner as the original appointment and in a timely manner.

(5) Members shall serve staggered 3-year terms.

~~(6) (a) The commission is allocated to the department of administration for administrative purposes only, as provided in 2-15-121, except that:~~

~~(i) the commission shall hire staff for the commission subject to subsection (6)(b) and the chief public defender shall hire separate staff for the office, except for any support staff provided by the department of administration for centralized services, such as payroll, human resources, accounting, information technology, or other services determined by the commission and the department to be more efficiently provided by the department; and~~

~~(ii) commission and office of state public defender budget requests prepared and presented to the legislature and the governor in accordance with 17-7-111 must be prepared and presented independently of the department of administration. However, nothing in this subsection (6)(a)(ii) prohibits the department from providing administrative support for the budgeting process and including the budget requests in appropriate sections of the department's budget requests for administratively attached agencies.~~

~~(b) New staff positions for the commission may be added only when the public defender account established pursuant to 47-1-110 has received sufficient revenue pursuant to 46-8-113(1)(a) and (1)(b) to maintain a balance in the account that would sustain any staff position approved by the commission for at least 1 year. The commission shall serve in an advisory capacity, as defined in 2-15-102, to the director of the office of state public defender.~~

(7) While serving a term on the commission, a member of the commission may not serve as a judge, a public defender employed by or under contract with the office of state public defender established in ~~47-1-201~~ [section 1], a county attorney or a deputy county attorney, the attorney general or an assistant attorney general, the United States district attorney or an assistant United States district attorney, or a law enforcement official.

(8) Members of the commission may not receive a salary for service on the commission but must be reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the discharge of official duties.

(9) The commission shall *meet quarterly*, establish procedures for the conduct of its affairs, and elect a presiding officer from among its members. *The director of the office of state public defender may call special meetings of the commission as needed.*

Section 3. Section 2-18-103, MCA, is amended to read:

"2-18-103. Officers and employees excepted. Parts 1 through 3 and 10 do not apply to the following officers and employees in state government:

(1) elected officials;

(2) county assessors and their chief deputies;

(3) employees of the office of consumer counsel;

(4) judges and employees of the judicial branch;

(5) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;

(6) officers or members of the militia;

(7) agency heads appointed by the governor;

(8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;

(9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

(10) investment officer, assistant investment officer, executive director, and five professional staff positions of the board of investments;

(11) four professional staff positions under the board of oil and gas conservation;

(12) assistant director for security of the Montana state lottery;

(13) executive director and employees of the state compensation insurance fund;

(14) state racing stewards employed by the executive secretary of the Montana board of horseracing;

(15) executive director of the Montana wheat and barley committee;

(16) commissioner of banking and financial institutions;

(17) training coordinator for county attorneys;

(18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;

(19) chief information officer in the department of administration;

(20) chief business development officer and six professional staff positions in the office of economic development provided for in 2-15-218;

(21) *the following positions in the office of state public defender established in [section 1]:*

(a) ~~the chief public defender~~ *public defender division administrator appointed by the public defender commission pursuant to the Montana Public Defender Act, Title 47, chapter 1, and appointed as provided in 47-1-105;*

(b) ~~the employees in the positions listed~~ *deputy public defenders provided for in 47-1-201(3)(a), who are appointed by the chief public defender public defender division administrator; and*

~~(22)(c) the chief appellate defender~~ *appellate defender division administrator in the office of appellate defender appointed as provided in 47-1-105;*

(d) *the conflict defender division administrator appointed as provided in 47-1-105; and*

(e) *the director of the office of state public defender provided for in [section 1].*

Section 4. Section 3-5-511, MCA, is amended to read:

“3-5-511. Witnesses’ warrants – state reimbursement. (1) The witnesses in criminal actions, witnesses called by a public defender, as defined in 47-1-103, and witnesses called in a grand jury proceeding shall report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk shall give to the witness a county warrant, signed by the clerk, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due pursuant to Title 26, chapter 2, part 5, and 46-15-116.

(3) The state shall reimburse the clerk for the amount specified in the warrant as follows:

(a) if the witness was subpoenaed by the prosecution in a criminal proceeding or in a grand jury or by an indigent defendant acting pro se, the

amount must be reimbursed by the office of court administrator as provided in 3-5-901; or

(b) if the witness was subpoenaed by a public defender, the amount must be reimbursed by the office of state public defender as provided in 47-1-201 [section 26].”

Section 5. Section 3-5-604, MCA, is amended to read:

“3-5-604. Court reporters – transcript of district court proceedings – costs. (1) When a transcript of the testimony and proceedings of a trial or hearing or a part of a trial or hearing is requested, a court reporter shall furnish the transcript to the requester with all reasonable diligence. The court reporter shall submit an invoice with the transcript when it is furnished. The court reporter may withhold delivery of the transcript until the transcription fee is paid or satisfactory arrangement for payment is made.

(2) Compensation for transcripts under this section is as follows:

(a) (i) Ordinary transcript - \$2 per page for the original furnished to a state or local government agency, \$2.50 per page for the original furnished to any other party, 50 cents per page for the first copy to each party, and 25 cents per page for each additional copy to the same party.

(ii) Expedited transcript - \$4 per page for the original, 50 cents per page for the first copy to each party, and 25 cents per page for each additional copy to the same party.

(iii) Daily transcript - \$5 per page for the original, 50 cents per page for the first copy to each party, and 25 cents per page for each additional copy to the same party.

(b) (i) The transcript cost is subject to a cost-of-living adjustment as provided in subsection (2)(b)(ii).

(ii) Prior to June 30 of each even-numbered year, the office of the court administrator shall determine whether an increase of the transcript amount specified in subsections (2)(a)(i) through (2)(a)(iii) must be made based on the increase, if any, from June of the preceding year to May of the year in which the calculation is made in the consumer price index, U.S. city average, all urban consumers, for all items, as published by the bureau of labor statistics of the United States department of labor.

(iii) The transcript amount established under subsection (2)(b)(ii) must be rounded to the nearest 5 cents and becomes effective as the new transcript cost, replacing the costs specified in subsections (2)(a)(i) through (2)(a)(iii), on July 1 of the year following the year the calculation was made. The office of the court administrator shall publish the adjusted costs on the judicial branch website prior to July 1 of each year.

(3) If the court reporter is not entitled to retain transcription fees under 3-5-601, the transcription fees required by subsection (2) must be paid to the clerk of district court, who shall forward the amount to the department of revenue for deposit in the state general fund.

(4) (a) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter shall furnish it. The transcription fee must be paid by the office of court administrator as provided in 3-5-901. The office of the court administrator may pay only for ordinary transcripts and may not pay for daily or expedited transcripts.

(b) If the judge requires a copy in a civil case to assist in rendering a decision, the reporter shall furnish the copy without charge.

(c) In civil cases, all transcripts required by the county must be furnished and must be paid for by the county pursuant to subsection (2).

(5) (a) If a public defender, as defined in 47-1-103, requests a transcript, the transcript must be furnished to the public defender and paid for by the office of state public defender, as provided in ~~47-1-201~~ [section 26].

(b) If an indigent party is eligible for a public defender but is acting pro se and requests a transcript, the transcript must be furnished to the party and paid for by the office of court administrator, as provided in 3-5-901.

(6) As used in this section, the following definitions apply:

(a) "Copy" means any replication of the original transcript regardless of the medium.

(b) "Daily transcript" means a transcript of all or part of the proceedings to be delivered the following day.

(c) "Expedited transcript" means a transcript of all or part of the proceedings to be delivered within 7 calendar days.

(d) "Ordinary transcript" means a transcript of all or part of the proceedings."

Section 6. Section 3-5-901, MCA, is amended to read:

"3-5-901. State assumption of district court expenses. (1) There is a state-funded district court program under the judicial branch. Under this program, the office of court administrator shall fund all district court costs, except as provided in subsection (3). These costs include but are not limited to the following:

(a) salaries and benefits for:

(i) district court judges;

(ii) law clerks;

(iii) court reporters, as provided in 3-5-601;

(iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court; and

(v) other employees of the district court;

(b) in criminal cases:

(i) fees for transcripts of proceedings, as provided in 3-5-604;

(ii) witness fees and necessary expenses, as provided in 46-15-116;

(iii) juror fees and necessary expenses;

(iv) for a psychiatric examination under 46-14-202, the cost of the examination and other associated expenses, as provided in 46-14-202(4); and

(v) for commitment under 46-14-221, the cost of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the department of public health and human services and of transporting the defendant back for any proceedings, as provided in 46-14-221(5);

(c) except as provided in ~~47-1-201(5)~~ [section 26], the district court expenses in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;

(d) except as provided in ~~47-1-201(5)~~ [section 26], the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

(i) transcript fees;

(ii) witness fees; and

(iii) expenses for psychiatric examinations;

(e) except as provided in ~~47-1-201(5)~~ [section 26], the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

(i) transcript fees;

- (ii) witness fees;
 - (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;
 - (iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and
 - (v) expenses associated with court-ordered alternative dispute resolution;
 - (f) except as provided in 47-1-201(5) [section 26], costs of juror and witness fees and witness expenses before a grand jury;
 - (g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);
 - (h) except as provided in 47-1-201(5) [section 26], all district court expenses associated with civil jury trials if similar expenses were paid out of the district court fund or the county general fund in any previous year;
 - (i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors; and
 - (j) costs associated with the operation and maintenance of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5.
- (2) If a cost is not paid directly by the office of court administrator, the county shall pay the cost and the office of court administrator shall reimburse the county within 30 days of receipt of a claim.
- (3) For the purposes of subsection (1), district court costs paid by the office of court administrator do not include:
- (a) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;
 - (b) costs of providing and maintaining district court office space; or
 - (c) charges incurred against a county by virtue of any provision of Title 7 or 46."

Section 7. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for administrative purposes:

- (a) department of administration, except:
 - (i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019;
 - (ii) the state tax appeal board established in 2-15-1015; and
 - ~~(iii) the office of state public defender; and~~
 - ~~(iv)~~ (iii) the division of banking and financial institutions;
 - (b) department of military affairs; and
 - (c) office of the secretary of state.
- (2) The committee shall:
- (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study

and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles; and

(d) publish, for legislators' use, information on the public employee retirement systems that the committee considers will be valuable to legislators when considering retirement legislation.

(3) The committee may:

(a) specify the date by which retirement board proposals affecting a retirement system must be submitted to the committee for the review pursuant to subsection (1); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request."

Section 8. Section 17-7-154, MCA, is amended to read:

"17-7-154. (Temporary) Expenditures for district courts and office of public defender. Expenditure comparisons of state resources to local government must include state expenditures for the district courts and the office of state public defender but not for the ~~office of appellate defender~~ *appellate defender division*. (Terminates June 30, 2025--sec. 7, Ch. 232, L. 2015.)"

Section 9. Section 26-2-506, MCA, is amended to read:

"26-2-506. Fees paid by party subpoenaing – exceptions. (1) Except as provided in subsection (2), fees and compensation of a witness in all criminal and civil actions must be paid by the party who caused the witness to be subpoenaed.

(2) (a) When a witness is subpoenaed by a public defender, as defined in 47-1-103, the fees and expenses must be paid by the office of state public defender as provided in ~~47-1-201(5)~~ *[section 26]*.

(b) In a criminal proceeding, when a witness is subpoenaed on behalf of the attorney general or a county attorney, the witness fees and expenses must be paid by the office of court administrator as provided in 3-5-901.

(c) In any proceeding in which a defendant or respondent is entitled to a public defender, as defined in 47-1-103, but is acting pro se, the witness fees and expenses must be paid by the office of court administrator, as provided in 3-5-901."

Section 10. Section 41-5-111, MCA, is amended to read:

"41-5-111. Court costs and expenses. (1) Compensation for services and related expenses for counsel assigned for a party must be paid by the office of state public defender provided for in ~~47-1-201~~ *[section 1]*.

(2) Expenses for service of summons, notices, subpoenas, fees, and traveling expenses of witnesses, and other witness-related expenses incurred in any proceeding under the Montana Youth Court Act must be paid as provided for in 26-2-506.

(3) Reasonable compensation of a guardian ad litem appointed by the court must be paid as provided for in 3-5-901.

(4) Costs for transcripts and printing briefs must be paid as provided for in 3-5-604."

Section 11. Section 41-5-1413, MCA, is amended to read:

"41-5-1413. Right to counsel – assignment of counsel. In all proceedings following the filing of a petition alleging that a youth is a delinquent youth or youth in need of intervention, the youth and the parents or guardian of the youth must be advised by the court or, in the absence of the court, by its

representative that the youth may be represented by counsel at all stages of the proceedings. If counsel is not retained or if it appears that counsel will not be retained for the youth, the court shall order the office of state public defender, provided for in ~~47-1-201 [section 1]~~, to assign counsel for the youth pursuant to the Montana Public Defender Act, Title 47, chapter 1, unless the right to counsel is waived by the youth and the parents or guardian. Neither the youth nor the youth's parents or guardian may waive the right to counsel after a petition has been filed if commitment to the department for a period of more than 6 months may result from adjudication."

Section 12. Section 42-2-405, MCA, is amended to read:

"42-2-405. Relinquishment by minor parent – separate legal counsel in direct parental placement adoption. (1) A parent who is a minor has the right to relinquish all rights to that minor parent's child and to consent to the child's adoption. The relinquishment is not subject to revocation by reason of minority.

(2) In a direct parental placement adoption, a relinquishment and consent to adopt executed by a parent who is a minor is not valid unless the minor parent has been advised by an attorney who does not represent the prospective adoptive parent. Legal fees charged by the minor parent's attorney are an allowable expense that may be paid by prospective adoptive parents under 42-7-101, subject to the limitations in 42-7-102.

(3) If in the court's discretion it is in the best interest of justice, the court may order the office of state public defender, provided for in ~~47-1-201 [section 1]~~, to assign counsel to represent the minor parent."

Section 13. Section 46-4-304, MCA, is amended to read:

"46-4-304. Conduct of investigative inquiry. (1) The prosecutor may examine under oath all witnesses subpoenaed pursuant to this part. Testimony must be recorded. The witness has the right to have counsel present at all times. If the witness does not have funds to obtain counsel, the judge or justice shall order the office of state public defender, provided for in ~~47-1-201 [section 1]~~, to assign counsel.

(2) The secrecy and disclosure provisions relating to grand jury proceedings apply to proceedings conducted under subsection (1). A person who divulges the contents of the application or the proceedings without legal privilege to do so is punishable for contempt of court.

(3) All penalties for perjury or preparing, submitting, or offering false evidence apply to proceedings conducted under this part."

Section 14. Section 46-8-101, MCA, is amended to read:

"46-8-101. Right to counsel. (1) During the initial appearance before the court, every defendant must be informed of the right to have counsel and must be asked if the aid of counsel is desired.

(2) Except as provided in subsection (3), if the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a felony or the offense is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, the court shall order the office of state public defender, provided for in ~~47-1-201 [section 1]~~, to assign counsel to represent the defendant without unnecessary delay pending a determination of eligibility under the provisions of 47-1-111.

(3) If the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, during the initial appearance the court may order that incarceration not be exercised as a sentencing option if the defendant is convicted. If the court so orders, the court shall inform the defendant that the assistance of counsel at public expense

through the office of state public defender is not available and that time will be given to consult with an attorney before a plea is entered. If incarceration is waived as a sentencing option, a public defender may not be assigned.”

Section 15. Section 46-8-104, MCA, is amended to read:

“46-8-104. Assignment of counsel after trial – definition. (1) Any court of record may order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel, subject to the provisions of the Montana Public Defender Act, Title 47, chapter 1, to represent any petitioner or appellant in any postconviction action or proceeding brought under Title 46, chapter 21, if the petitioner or appellant is eligible for the appointment of counsel and:

(a) the district court determines that a hearing on the petition is required pursuant to 46-21-201;

(b) ~~the state public defender’s office~~ *office of state public defender* requests appointment of a public defender and demonstrates good cause for the appointment;

(c) a statute specifically mandates the appointment of counsel;

(d) the petitioner or appellant is clearly entitled to counsel under either the United States or Montana constitution; or

(e) extraordinary circumstances exist that require the appointment of counsel to prevent a miscarriage of justice.

(2) An appointment of counsel made in the interests of justice, as provided in 46-21-201(2), may be made only when extraordinary circumstances exist.

(3) As used in this section, “extraordinary circumstances” includes those in which the petitioner or appellant does not have access to legal materials or has a physical or mental condition or limitation that prevents the petitioner or appellant from reading or writing in English.”

Section 16. Section 46-15-115, MCA, is amended to read:

“46-15-115. Subpoena for witness when defendant unable to pay.

(1) The court shall order at any time that a subpoena be issued for service on a named witness upon the ex parte application of a defendant acting pro se and upon a satisfactory showing that the defendant is financially unable to pay the costs incurred for the witness and that the presence of the witness is necessary to an adequate defense.

(2) If a defendant is indigent but is acting pro se and is not represented by a public defender, as defined in 47-1-103, a court order must be obtained if more than six witnesses are to be subpoenaed.

(3) If the defendant is represented by a public defender, as defined in 47-1-103, witness costs must be paid by the office of state public defender as provided for in ~~47-1-201~~ [section 26].”

Section 17. Section 46-17-203, MCA, is amended to read:

“46-17-203. Plea of guilty – use of two-way electronic audio-video communication. (1) Before or during trial, a plea of guilty must be accepted, and a plea of nolo contendere may be accepted with the consent of the court and the prosecutor, when:

(a) subject to the provisions of subsection (3), the defendant enters a plea of guilty or nolo contendere in open court; and

(b) the court has informed the defendant of the consequences of the plea and of the maximum penalty provided by law that may be imposed upon acceptance of the plea.

(2) (a) Subject to subsection (2)(b), a plea of guilty or nolo contendere in a justice’s court, city court, or other court of limited jurisdiction waives the right of trial de novo in district court. A defendant must be informed of the waiver before the plea is accepted, and the justice or judge shall question the defendant to ensure that the plea and waiver are entered voluntarily.

(b) A defendant who claims that a plea of guilty or nolo contendere was not entered voluntarily may move to withdraw the plea. If the motion to withdraw is denied, the defendant may, within 90 days of the denial of the motion, appeal the denial of a motion to withdraw the plea to district court. The district court may order the office of state public defender, provided for in ~~47-1-201~~ *[section 1]*, to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, hold a hearing, and enter appropriate findings of fact, conclusions of law, and a decision affirming or reversing the denial of the defendant's motion to withdraw the plea by the court of limited jurisdiction. The district court may remand the case, or the defendant may appeal the decision of the district court.

(3) For purposes of this section, in cases in which the defendant is charged with a misdemeanor offense, an entry of a plea of guilty or nolo contendere through the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard in the courtroom by all present, is considered to be an entry of a plea of guilty or nolo contendere in open court. Audio-video communication may be used if neither party objects and the court agrees to its use. The audio-video communication must operate as provided in 46-12-201."

Section 18. Section 46-21-111, MCA, is amended to read:

"46-21-111. Preservation and disposal of biological evidence obtained in criminal proceeding. (1) (a) A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained. The agency shall preserve the evidence for a minimum of 3 years after the conviction in the case becomes final or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final.

(b) An agency may propose to dispose of biological evidence before the expiration of the time period described in subsection (1)(a) if the agency notifies the convicted person, the attorney of record for the convicted person, and the Montana ~~chief public defender~~ *division administrator*. The notification must include a description of the biological evidence, a statement that the agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. If an objection to the disposition of the evidence is not filed within the 120-day period, the agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system.

(c) If a party objects to the disposition of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the evidence should be disposed of.

(2) Upon completion of laboratory analysis, the laboratory operated by the forensic sciences division of the department of justice shall permanently preserve under laboratory control any remaining biological evidence collected from items submitted to it.

(3) For purposes of this section, the following definitions apply:

(a) "Biological evidence" means any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, including the contents of a sexual assault examination kit, that is collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate any person of an offense.

(b) “DNA” means deoxyribonucleic acid.”

Section 19. Section 46-21-201, MCA, is amended to read:

“46-21-201. Proceedings on petition. (1) (a) Unless the petition and the files and records of the case conclusively show that the petitioner is not entitled to relief, the court shall cause notice of the petition to be sent to the county attorney in the county in which the conviction took place and to the attorney general and order that a responsive pleading be filed. The attorney general shall determine whether the attorney general will respond to the petition and, if so, whether the attorney general will respond in addition to or in place of the county attorney. Following its review of the responsive pleading, the court may dismiss the petition as a matter of law for failure to state a claim for relief or it may proceed to determine the issue.

(b) If the death sentence has been imposed, upon receipt of the response or responses to the petition, the court shall promptly hold a conference to determine a schedule for the expeditious resolution of the proceeding. The court shall issue a decision within 90 days after the hearing on the petition or, if there is no hearing, within 90 days after the filing of briefs as allowed by rule or by court order. If the decision is not issued during that period, a party may petition the supreme court for a writ of mandate or other appropriate writ or relief to compel the issuance of a decision.

(c) To the extent that they are applicable and are not inconsistent with this chapter, the rules of procedure governing civil proceedings apply to the proceeding.

(2) If the death sentence has not been imposed and a hearing is required or if the interests of justice require, the court shall order the office of state public defender, provided for in ~~47-1-201~~ */section 1/*, to assign counsel for a petitioner who qualifies for the assignment of counsel under Title 46, chapter 8, part 1, and the Montana Public Defender Act, Title 47, chapter 1.

(3) (a) Within 30 days after a conviction for which a death sentence was imposed becomes final, the sentencing court shall notify the sentenced person that if the person is indigent, as defined in 47-1-103, and wishes to file a petition under this chapter, the court will order the office of state public defender, ~~provided for in 47-1-201~~, to assign counsel who meets the Montana supreme court’s standards and the office of state public defender’s standards for competency of assigned counsel in proceedings under this chapter for an indigent person sentenced to death.

(b) Within 75 days after a conviction for which a death sentence was imposed upon a person who wishes to file a petition under this chapter becomes final, the sentencing court shall:

(i) order the office of state public defender to assign counsel to represent the person pending a determination by the office of state public defender that the person is indigent, as defined in 47-1-103, and that the person either has accepted the offer of assigned counsel or is unable to competently decide whether to accept the offer of assigned counsel;

(ii) if the offer of assigned counsel is rejected by a person who understands the legal consequences of the rejection, enter findings of fact after a hearing, if the court determines that a hearing is necessary, stating that the person rejected the offer with an understanding of the legal consequences of the rejection; or

(iii) if the petitioner is determined not to be indigent, deny or rescind any order requiring the assignment of counsel.

(c) The office of state public defender may not assign counsel who has previously represented the person at any stage in the case unless the person and the counsel expressly agree to the assignment.

(d) If a petitioner entitled to counsel under this subsection (3) is determined not to be indigent but becomes indigent at any subsequent stage of the proceedings, the court shall order the assignment of counsel as provided in subsection (3)(b)(i).

(e) The expenses of counsel assigned pursuant to this subsection (3) must be paid by the office of state public defender.

(f) Violation of this subsection (3) is not a basis for a claim or relief under this chapter.

(4) The court, for good cause, may grant leave to either party to use the discovery procedures available in criminal or civil proceedings. Discovery procedures may be used only to the extent and in the manner that the court has ordered or to which the parties have agreed.

(5) The court may receive proof of affidavits, depositions, oral testimony, or other evidence. In its discretion, the court may order the petitioner brought before the court for the hearing.

(6) If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and any supplementary orders as to reassignment, retrial, custody, bail, or discharge that may be necessary and proper. If the court finds for the prosecution, the petition must be dismissed."

Section 20. Section 47-1-103, MCA, is amended to read:

"47-1-103. Definitions. As used in this chapter, *unless the context clearly requires otherwise*, the following definitions apply:

(1) ~~"Commission" means the public defender commission established in 2-15-1028.~~

(2)(1) "Court" means the supreme court, a district court, a youth court, a justice's court, a municipal court, or a city court.

(3)(2) *"Director" means the director of the office of state public defender hired by the director of the department of administration as provided in [section 1].*

(3) "Indigent" means that a person has been determined under the provisions of 47-1-111 to be indigent and financially unable to retain private counsel.

(4)(4) "Office" means the office of state public defender established in ~~47-1-201~~ [section 1].

(5)(5) "Public defender" means an attorney employed by or under contract with the office and assigned to provide legal counsel to a person under the provisions of this chapter, including attorneys employed by or under contract with the ~~office of appellate defender appellate defender division and the conflict defender division.~~

(6)(6) "Statewide public defender system", "state system", or "system" means the system of public defender services established pursuant to this chapter."

Section 21. Section 47-1-104, MCA, is amended to read:

"47-1-104. Statewide system -- structure and scope of services -- assignment of counsel at public expense. (1) There is a statewide public defender system, which is required to deliver public defender services in all courts in this state. The system is supervised by the ~~commission and administered by the office director.~~

(2) The ~~commission~~ director shall approve a strategic plan for service delivery and divide the state into not more than 11 public defender regions. The ~~commission~~ director may establish a regional office to provide public defender services in each region, as provided in 47-1-215, establish a contracted services program to provide services in the region, or utilize other service delivery methods as appropriate and consistent with the purposes described in 47-1-102.

(3) When a court orders the ~~office or the office of appellate defender to assign counsel~~ *assignment of a public defender*, the appropriate office shall immediately assign a public defender qualified to provide the required services. The ~~commission director~~ shall establish protocols to ensure that the offices make appropriate assignments in a timely manner.

(4) A court may order ~~an office to assign counsel~~ *assignment of a public defender* under this chapter in the following cases:

(a) in cases in which a person is entitled to assistance of counsel at public expense because of financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:

(i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of incarceration, as provided in 46-8-101;

(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in 40-6-119;

(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant 41-3-422 and as required under the federal Indian Child Welfare Act, as provided in 41-3-425;

(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;

(v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;

(vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;

(vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in 53-21-116;

(ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as provided in 53-24-302; and

(x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.

(b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless of the person's financial ability to retain private counsel, as follows:

(i) as provided for in 41-3-425;

(ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution Act, as provided in 41-5-1607;

(iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles, as provided in 41-6-101;

(iv) for a minor who petitions for a waiver of parental consent requirements under the Parental Consent for Abortion Act of 2013, as provided in 50-20-509;

(v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;

(vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

(viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental disorder of the ward, as provided in 72-5-322; and

(c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest."

Section 22. Section 47-1-105, MCA, is amended to read:

"47-1-105. Commission Director – duties –~~report~~ – ~~report~~ – rules.

(1) The ~~commission~~ director shall supervise and direct the system. In addition to other duties assigned pursuant to this chapter, the ~~commission~~ director shall:

(1)(a) establish the qualifications, duties, and compensation of the ~~chief public defender public defender division administrator~~, as provided for in 47-1-201, appoint a ~~the chief public defender public defender division administrator~~ after considering qualified applicants, and regularly evaluate the performance of the ~~chief public defender public defender division administrator~~; and

(b) establish the qualifications, duties, and compensation of the ~~chief appellate defender appellate defender division administrator~~, as provided for in 47-1-205, appoint a ~~the chief appellate defender appellate defender division administrator~~ after considering qualified applicants, and regularly evaluate the performance of the ~~chief appellate defender appellate defender division administrator~~; and

(c) ~~establish the qualifications, duties, and compensation of the conflict defender division administrator provided for in 47-1-118, appoint the conflict defender division administrator after considering qualified applicants, and regularly evaluate the performance of the conflict defender division administrator.~~

(2) The director shall establish statewide standards for the qualification and training of attorneys providing public defender services to ensure that services are provided by competent counsel and in a manner that is fair and consistent throughout the state. The standards must take into consideration:

(a) the level of education and experience that is necessary to competently handle certain cases and case types, such as criminal, juvenile, abuse and neglect, civil commitment, capital, and other case types, including cases on appeal, in order to provide effective assistance of counsel;

(b) acceptable caseloads and workload monitoring protocols to ensure that public defender workloads are manageable;

(c) access to and use of necessary professional services, such as paralegal, investigator, and other services that may be required to support a public defender in a case;

(d) continuing education requirements for public defenders and support staff;

(e) practice standards;

(f) performance criteria; and

(g) performance evaluation protocols.

(3) *The director shall also:*

(a) review and approve the strategic plan and budget *based on proposals submitted by the chief public defender, the administrative director, and the chief appellate defender; public defender division administrator, the central services division administrator, the appellate defender division administrator, and the conflict defender division administrator;*

(4)(b) review and approve any proposal to create permanent staff positions;

(5) ~~establish and oversee a conflicts office with a conflicts manager responsible for conflicts of interest and for ensuring that cases involving a conflict of interest are handled according to professional ethical standards;~~

(6)(c) establish policies and procedures for handling excess caseloads;

(7)(d) establish policies and procedures to ensure that detailed expenditure and caseload data is collected, recorded, and reported to support strategic planning efforts for the system;; and

(e) *examine workloads and workload standards for all levels within the office of state public defender and include its findings in the biennial report provided for in [section 28].*

(8)(4) *The office of state public defender shall adopt administrative rules pursuant to the Montana Administrative Procedure Act to implement the provisions of this chapter; and*

(9) ~~submit a biennial report to the governor, the supreme court, and the legislature, as provided in 5-11-210. Each interim, the commission shall also specifically report to the law and justice interim committee established pursuant to 5-5-202 and 5-5-226. The report must cover the preceding biennium and include:~~

(a) ~~all policies or procedures in effect for the operation and administration of the statewide public defender system;~~

(b) ~~all standards established or being considered by the commission, the chief public defender, or the chief appellate defender;~~

(c) ~~the number of deputy public defenders and the region supervised by each;~~

(d) ~~the number of public defenders employed or contracted with in the system, identified by region;~~

(e) ~~the number of attorney and nonattorney staff supervised by each deputy public defender;~~

(f) ~~the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;~~

(g) ~~the total number of persons represented by the office and the office of appellate defender, identified by region, court, and case type;~~

(h) ~~the annual caseload and workload of each public defender, except for the chief public defender, and of the office of appellate defender, identified by region, court, and case type;~~

(i) ~~the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;~~

(j) ~~the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and~~

(k) ~~detailed expenditure data by court and case type."~~

Section 23. Section 47-1-110, MCA, is amended to read:

"47-1-110. Public defender account. (1) There is a public defender account in the state special revenue fund *to the credit of the office. The office may accept gifts, grants, and donations to carry out the purposes of this chapter. Gifts, grants, or donations provided to support the system must be deposited*

in the account. Money in the account may be used only for the operation of the system.

(2) Money to be deposited in the account also includes:

(a) payments for the cost of a public defender ordered by the court pursuant to 46-8-113 as part of a sentence in a criminal case;

(b) payments for public defender costs ordered pursuant to the Montana Youth Court Act;

(c) payments made pursuant to The Crime Victims Compensation Act of Montana and designated as payment for public defender costs pursuant to 53-9-104; and

(d) payments for the cost of a public defender in proceedings under the provisions of the Uniform Probate Code in Title 72, chapter 5, or proceedings under 53-20-112 for the involuntary commitment of a developmentally disabled person when the respondent is determined to have the financial ability to pay for a public defender and a judge orders payment under 47-1-111.

(3) *By August 1 of each year, the state treasurer shall transfer the unencumbered balance in the public defender account to the state general fund."*

Section 24. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility – determination of indigence – rules. (1) (a)

When a court orders the office to assign counsel to an applicant for public defender services, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately file a motion to rescind appointment so that the court's order may be rescinded.

(c) (i) The applicant may request that the court conduct a hearing on the motion to rescind appointment. If the applicant requests a hearing on the motion to rescind appointment, the court shall hold the hearing.

(ii) The sole purpose of the hearing is to determine the financial eligibility of the applicant for public defender services. At the beginning of the hearing, the court shall admonish the parties that the scope of the hearing is limited to determining the financial eligibility of the applicant for public defender services.

(iii) Only evidence related to the applicant's financial eligibility for public defender services may be introduced at the hearing.

(iv) The applicant may not be compelled to testify at a hearing on the motion to rescind appointment.

(v) If the applicant testifies at the hearing, the applicant may be questioned only regarding financial eligibility for public defender services.

(vi) If the applicant testifies at the hearing, the court shall advise the applicant that any testimony or evidence introduced on the applicant's behalf other than testimony or evidence regarding financial eligibility may be used during any criminal action.

(vii) Evidence regarding financial eligibility under this section may not be used in any criminal action, except in a criminal action regarding a subsequent charge of perjury or false swearing related to the applicant's claim of entitlement to public defender services.

(d) If the applicant does not request a hearing on the motion to rescind appointment, does not appear at a hearing on the motion to rescind appointment, or does not testify or present evidence regarding financial eligibility at the hearing on the motion to rescind appointment, the court shall find the applicant is not eligible to have counsel assigned under Title 47 and

shall grant the motion to rescind appointment and order the assignment of counsel to be rescinded.

(e) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court grants the motion to rescind appointment and orders the assignment of counsel to be rescinded.

(f) Any determination pursuant to this section is subject to the review and approval of the court. The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.

(2) (a) An applicant for public defender services who is eligible for a public defender because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit. The court shall advise the defendant that the defendant is subject to criminal charges for any false statement made on the financial statement.

(b) The application, financial statement, and affidavit must be on a form prescribed by the ~~commission~~ *central services division provided for in [section 26]*. The affidavit must clearly state that it is signed under the penalty of perjury and that a false statement may be prosecuted. The judge may inquire into the truth of the information contained in the affidavit.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in 15-30-2337, is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) *The central services division shall ensure that determinations based on presumptive eligibility, income and assets, and substantial hardships are done in a consistent manner throughout the state. The central services division shall verify information on the application form for all applicants seeking counsel under subsection (3)(b).*

(6)(7) The ~~commission~~ *central services division* shall establish procedures and adopt rules to implement this section. ~~Commission~~ *The procedures and rules:*

(a) must ensure that the eligibility determination process is *done timely and is* fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not

constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit a public defender from performing eligibility screening for the public defender's own cases pursuant to this section. A deputy public defender or individual public defender reviewing another public defender's case may ~~perform~~ *oversee* eligibility screening pursuant to this section."

Section 25. Section 47-1-118, MCA, is amended to read:

"47-1-118. Conflicts of interest – conflict defender division administrator. (1) The ~~commission director~~ shall establish a conflicts ~~office to defender division contract for attorneys to represent to provide for the representation of~~ indigent defendants in circumstances ~~where in which,~~ because of conflict of interest, the ~~public defender program~~ *public defender division or the appellate defender division* is unable to provide representation to a defendant.

(2) ~~The commission shall appoint a conflicts manager to oversee the office~~ *The position of conflict defender division administrator is appointed by the director under 47-1-105 and is exempt from the state classification and pay plan as provided in 2-18-103. The conflicts manager conflict defender division administrator* reports directly to the ~~commission director~~ and not to the ~~chief public defender public defender division administrator~~.

(3) ~~The conflicts manager conflict defender division administrator~~ may not handle cases.

~~(3)(4) All attorneys contracted for handling conflict of interest cases shall report to the conflicts manager conflict defender division administrator."~~

Section 26. Central services division – responsibilities – department of administration to support. (1) There is a central services division in the office of state public defender. The division must be located in Butte, Montana. The central services division is supervised by an administrator hired by the director.

(2) The central services division shall:

(a) manage eligibility determination under 47-1-111;

(b) manage contracting under 47-1-216;

(c) manage training pursuant to 47-1-210;

(d) provide administrative support to the director; and

(e) actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the system.

(3) The central services division shall establish for the office of state public defender:

(a) standard procedures to handle complaints about public defender performance and work with the public defender division administrator, appellate defender division administrator, and conflict defender division administrator to ensure that public defenders, office personnel, and clients are aware of avenues available for bringing a complaint and that office procedures do not conflict with the disciplinary jurisdiction of the supreme court and the rules promulgated pursuant to Article VII, section 2, of the Montana constitution and the applicable provisions of Title 37, chapter 61;

(b) processes and procedures to ensure that employees and contract personnel use information technology and caseload management systems so that detailed expenditure and caseload data is accurately collected, recorded, and reported.

(c) budgeting, reporting, and related administrative requirements for the office of state public defender, including procedures for the approval, payment, recording, reporting, and management of all defense expenses.

(4) The following expenses are payable by the central services division if the expense is incurred at the request of a public defender and is authorized by the director:

(a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and

(b) transcript fees, as provided in 3-5-604.

(5) If the costs to be paid pursuant to subsection (4) are not paid directly, reimbursement must be made within 30 days of the receipt of a claim.

(6) The department of administration established in 2-15-1001 shall provide central services support to the extent feasible and efficient.

Section 27. Reports. (1) (a) The office shall submit a biennial report to the governor, the supreme court, and the legislature, as provided in 5-11-210. Each interim, the director shall also specifically report to the law and justice interim committee established pursuant to 5-5-202 and 5-5-226.

(b) The biennial report must cover the preceding biennium and include:

(i) all policies or procedures in effect for the operation and administration of the statewide public defender system;

(ii) all standards of practice established or being considered by the director for the public defender division, the appellate defender division, and the conflict defender division;

(iii) the number of deputy public defenders and the region supervised by each;

(iv) the number of public defenders employed or contracted with in the system, identified by region, if appropriate, and office;

(v) the number of nonattorney staff employed or contracted with in the system, identified by region, if appropriate, and office;

(vi) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;

(vii) the total number of persons represented by the public defender division, the appellate defender division, and the conflict defender division identified by region, if appropriate, court, and case type;

(viii) the annual caseload and workload of each public defender identified by region, if appropriate, court, and case type;

(ix) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;

(x) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and

(xi) detailed expenditure data by court and case type.

(2) The office shall report data for each fiscal year by September 30 of the subsequent fiscal year representing the caseload for the entire public defender system to the governor and legislative fiscal analyst. The report must include unduplicated count data for all cases for which representation is paid for by the office, the number of new cases opened, the number of cases closed, the number of cases that remain open and active, the number of cases that remain open but are inactive, and the average number of days between case opening and closure for each case type. The report must be provided in an electronic format.

Section 28. Section 47-1-201, MCA, is amended to read:

~~“47-1-201. Office of state public defender Public defender division – personnel – compensation – expenses —reports.~~ (1) There is an office of state public defender *a public defender division. The office must be*

located in Butte, Montana. The head of the office is the chief public defender division is the public defender division administrator, who is supervised by the commission director.

(2) The chief public defender public defender division administrator must be an attorney licensed to practice law in the state. The chief public defender public defender division administrator is appointed by and serves at the pleasure of the commission director. The position of chief public defender public defender division administrator is exempt from the state classification and pay plan as provided in 2-18-103. The commission director shall establish compensation for the position commensurate with the position's duties and responsibilities, taking into account the compensation paid to prosecutors with similar responsibilities.

(3) The chief public defender public defender division administrator shall hire or contract for and supervise other personnel necessary to perform the function of the office of state public defender public defender division and to implement the provisions of this chapter, including but not limited to:

(a) the following personnel who are exempt from the state classification and pay plan as provided in 2-18-103:

(i) an administrative director, who must be experienced in business management and contract management;

(ii) a chief contract manager to oversee and enforce the contracting program;

(iii) a training coordinator, appointed as provided in 47-1-210;

(iv) deputy public defenders, as provided in 47-1-215, who are exempt from the state classification and pay plan as provided in 2-18-103;

(b) assistant public defenders; and

(c) other necessary administrative and professional support staff for the office public defender division.

(4) Positions established pursuant to subsections (3)(b) and (3)(c) are classified positions, and persons in those positions are entitled to salaries, wages, benefits, and expenses as provided in Title 2, chapter 18.

(5) The following expenses are payable by the office if the expense is incurred at the request of a public defender:

(a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and

(b) transcript fees, as provided in 3-5-604.

(6) If the costs to be paid pursuant to this section are not paid directly, reimbursement must be made within 30 days of the receipt of a claim.

(7) The office may accept gifts, grants, or donations, which must be deposited in the account provided for in 47-1-110.

(8) The office shall provide assistance with the budgeting, reporting, and related administrative functions of the office of appellate defender as provided in 47-1-205.

(9) The chief public defender shall establish procedures to provide for the approval, payment, recording, reporting, and management of defense expenses paid pursuant to this section, including defense expenses paid for work performed by or for the office of appellate defender.

(10) (a) The office of public defender is required to report data for each fiscal year by September 30 of the subsequent fiscal year representing the caseload for the entire public defender system to the legislative fiscal analyst. The report must be provided in an electronic format and include unduplicated count data for all cases for which representation is paid for by the office of public defender, the number of new cases opened, the number of cases closed, the number of cases that remain open and active, the number of cases that

remain open but are inactive, and the average number of days between case opening and closure for each case type.

(b) ~~The office of public defender is required to report to the legislative fiscal analyst for each fiscal year by September 30 of the subsequent fiscal year on the amount of funds collected as reimbursement for services rendered, including the number of cases for which a collection is made, the number of cases for which an amount is owed, the amount collected, and the amount remaining unpaid. The report must be provided in an electronic format."~~

Section 29. Section 47-1-202, MCA, is amended to read:

~~"47-1-202. Chief public defender~~ *Public defender division administrator – duties.* (1) In addition to the duties provided in 47-1-201; *and subject to approval by the director, the chief public defender public defender division administrator shall:*

(a) ~~act as secretary to the commission and provide administrative staff support to the commission until the commission can hire its staff as provided in 2-15-1028(6)(b);~~

(b) ~~assist the commission in establishing the state system and establishing the standards, policies, and procedures required pursuant to this chapter;~~

(c) ~~develop and present for the commission's approval~~ *implement* a regional strategic plan for the delivery of public defender services;

(d) ~~establish processes and procedures to ensure that office and contract personnel use information technology and caseload management systems so that detailed expenditure and caseload data is accurately collected, recorded, and reported;~~

(e)(b) ~~establish~~ *ensure that* administrative management procedures for regional offices *are consistent with the policies and procedures provided by the central services division established in [section 26];*

(f)(c) ~~establish~~ procedures for managing caseloads and assigning cases in a manner that ensures that public defenders are assigned cases according to experience, training, and manageable caseloads and taking into account case complexity, the severity of charges and potential punishments, and the legal skills required to provide effective assistance of counsel;

(g)(d) ~~establish~~ policies and procedures for assigning counsel in capital cases that are consistent with standards issued by the Montana supreme court for counsel for indigent persons in capital cases;

(h)(e) ~~work with the training coordinator provided for in 47-1-210~~ to establish and supervise a training and performance evaluation program for attorneys and nonattorney staff members and contractors;

(i)(f) ~~work with the central services division to establish procedures to handle complaints about public defender performance and to ensure that public defenders, office personnel, and clients are aware of avenues available for bringing a complaint and that office procedures do not conflict with the disciplinary jurisdiction of the supreme court and the rules promulgated pursuant to Article VII, section 2, of the Montana constitution and the applicable provisions of Title 37, chapter 61;~~

(j) ~~actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the system; and~~

(k)(g) ~~perform all other duties assigned by the commission~~ *director* pursuant to this chapter.

(2) ~~The chief public defender public defender division administrator may not maintain a client caseload."~~

Section 30. Section 47-1-205, MCA, is amended to read:

~~"47-1-205. Office of appellate defender – chief appellate defender~~ *Appellate defender division – division administrator.* (1) There is an

~~office of appellate defender~~ *appellate defender division*. The office of appellate defender ~~appellate defender division~~ must be located in Helena, Montana.

(2) (a) The ~~commission director~~ shall hire and supervise a ~~the chief appellate defender appellate defender division administrator~~ to manage and supervise the ~~office of appellate defender appellate defender division~~. The ~~chief appellate defender appellate defender division administrator~~ is appointed by and serves at the pleasure of the ~~commission director~~. The ~~commission director~~ shall establish compensation for the position commensurate with the position's duties and responsibilities, taking into account the compensation paid to prosecutors with similar responsibilities.

(b) The ~~chief appellate defender appellate defender division administrator~~ must be an attorney licensed to practice law in the state.

(c) The position of ~~chief appellate defender appellate defender division administrator~~ is exempt from the state classification and pay plan as provided in 2-18-103.

(3) ~~The Subject to approval by the director, the chief appellate defender appellate defender division administrator shall:~~

(a) direct, manage, and supervise all public defender services provided by the ~~office of appellate defender appellate defender division, including budgeting, reporting, and related functions;~~

(b) ensure that when a court orders the ~~office of appellate defender appellate defender division~~ to assign an appellate lawyer or when a defendant or petitioner is otherwise entitled to an appellate public defender, the assignment is made promptly to a qualified and appropriate appellate defender who is immediately available to the defendant or petitioner when necessary;

(c) ensure that appellate defender assignments comply with the provisions of 47-1-202(1)(f)(1)(c) and standards for counsel for indigent persons in capital cases by the Montana supreme court;

(d) hire and supervise the work of ~~office of appellate defender appellate defender division~~ personnel ~~as authorized by the appellate defender;~~

(e) contract for services as provided in 47-1-216 and as authorized by the ~~commission director~~ according to the strategic plan for the delivery of public defender services;

(f) keep a record of appellate defender services and expenses of the ~~office of appellate defender appellate defender division~~ and submit records and reports to the ~~commission as requested through the office of state public defender central services division provided for in [section 26];~~

(g) implement standards and procedures established by the ~~commission director for the office of appellate defender appellate defender division;~~

(h) maintain a minimum client caseload as determined by the ~~commission director;~~

(i) confer with the ~~chief public defender director~~ on budgetary issues and submit budgetary requests and ~~information for the reports required by law or by the governor through the chief public defender; and~~

(j) perform all other duties assigned to the ~~chief appellate defender appellate defender division administrator by the commission director."~~

Section 31. Section 47-1-210, MCA, is amended to read:

"47-1-210. Training program – coordinator. (1) There is within the ~~office central services division provided for in [section 26]~~ a position of training coordinator for public defenders.

(2) The ~~chief public defender central services division administrator~~ shall ~~appoint hire~~ the training coordinator.

(3) The training coordinator shall:

(a) coordinate training to public defenders in current aspects of criminal and civil law involving public defense;

(b) assist in the development and dissemination of standards, procedures, and policies that will ensure that public defender services are provided consistently throughout the state;

(c) consolidate information on important aspects of public defense and provide for a collection of official opinions, legal briefs, and other relevant information;

(d) provide assistance with research or briefs and provide other technical assistance requested by a public defender; *and*

(e) apply for and assist in the disbursement of federal funds or other grant money to aid the statewide public defender system; *and*

(f) perform other duties assigned by the ~~chief public defender~~ *director*.”

Section 32. Section 47-1-215, MCA, is amended to read:

“47-1-215. Regional offices – deputy public defenders – office space.

(1) ~~The chief public defender~~ *public defender division administrator* shall hire, assign, and supervise a deputy public defender to manage and supervise each regional office established pursuant to 47-1-104(2).

(2) ~~Each~~ *Subject to approval by the public defender division administrator,* each deputy public defender shall:

(a) manage and supervise all public defender services provided within the deputy public defender’s assigned region;

(b) establish protocols so that when a court orders ~~the office to assign the assignment of~~ counsel, the assignment is made promptly to an appropriate public defender and so that a public defender is immediately available when necessary;

(c) ensure that public defender assignments within the region comply with the provisions of 47-1-202~~(1)(f)~~(1)(c);

(d) hire and supervise the work of regional office personnel as authorized by the ~~chief public defender~~ *public defender division administrator*;

(e) ~~coordinate with the contract manager provided for in 47-1-216 to~~ contract for services as ~~provided in 47-1-216 and~~ authorized by the ~~chief public defender~~ *public defender division administrator* according to the strategic plan approved by the ~~commission~~ *director*;

(f) keep a record of public defender and associated services and expenses in the region and submit the records to the ~~chief public defender~~ *public defender division administrator* as requested;

(g) implement the standards and procedures established by the ~~commission director and chief public defender~~ *the public defender division administrator* for the region;

(h) maintain a minimum client caseload as determined by the ~~chief public defender~~ *public defender division administrator*; *and*

(i) perform all other duties as assigned by the ~~chief public defender~~ *public defender division administrator*.

(3) Expenses for office space required for regional offices, including rent, utilities, and maintenance, must be paid by the office of *state public defender* and may not be considered a county or city obligation.”

Section 33. Section 47-1-216, MCA, is amended to read:

“47-1-216. Contracted services – rules. (1) ~~The commission director~~ shall establish standards for a statewide contracted services program ~~that ensures to be managed by the central services division provided for in [section 26]. The director shall ensure that contracting for public defender services is done fairly and consistently statewide and within each public defender~~

region and that contracting for appellate defender services is done fairly and consistently statewide.

(2) ~~There is a contract manager position in the central services division~~ The chief contract manager shall oversee the contracting program and may not maintain a client caseload hired by the central services division administrator. The contract manager is responsible for the administrative oversight of contracting for attorney and nonattorney support for units of the office of state public defender.

(3) The office of state public defender and each regional office, in a manner consistent with statewide standards adopted by the commission pursuant to this section, may contract to provide public defender, professional nonattorney, and other personal services necessary to deliver public defender services within each public defender region. The chief appellate defender, in a manner consistent with statewide standards adopted by the commission pursuant to this section, may contract to provide appellate defender, professional nonattorney, and other personal services necessary to deliver appellate defender services in the state. All contracting pursuant to this section is exempt from the Montana Procurement Act as provided in 18-4-132.

(4) (a) ~~Except as provided in subsection (4)(b), contracts~~ Contracts may not be awarded based solely on the lowest bid or provide compensation to contractors based solely on a fixed fee paid irrespective of the number of cases assigned.

(b) ~~Contracts for legal representation of individuals appearing before the following specialty courts may be awarded based on a fixed fee:~~

(i) ~~a drug treatment court, as defined in 46-1-1103, including an adult, a juvenile, and a family drug court;~~

(ii) ~~a mental health treatment court, as defined in 46-1-1203;~~

(iii) ~~a DUI court, as defined in 61-5-231;~~

(iv) ~~a court that serves participants with co-occurring disorders, including a mental health treatment court that is combined with a drug treatment court;~~
or

(v) ~~a veterans treatment court.~~

(c) ~~A contract for legal representation pursuant to subsection (4)(b) may not be awarded without the approval of the commission and without verifiable assurances that effective representation will be provided.~~

(5) Contracting for public defender and appellate defender services attorney services must be done through a competitive process that must, at a minimum, involve the following considerations:

(a) ~~attorney qualifications necessary to provide effective assistance of counsel that meets the standards established by the commission;~~

(b) ~~attorney qualifications necessary to provide effective assistance of counsel that meets the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;~~

(c) ~~attorney access to support services, such as paralegal and investigator services;~~

(d) ~~attorney caseload, including the amount of private practice engaged in outside the contract;~~

(e) ~~reporting protocols and caseload monitoring processes;~~

(f) ~~a process for the supervision and evaluation of performance;~~

(g) ~~a process for conflict resolution; and~~

(h) ~~continuing education requirements in accordance with standards set by the commission; and~~

(i) ~~cost of the services.~~

(6) ~~The chief public defender, deputy public defenders, and the chief appellate defender public defender division administrator, deputy public defenders, appellate defender division administrator, and conflict defender division administrator shall provide for contract oversight and enforcement to ensure compliance with established standards supervise the personnel contracted for their respective offices and ensure compliance with the standards established in the contract.~~

(7) ~~The commission director shall adopt rules to~~ establish reasonable compensation for attorneys contracted to provide public defender and appellate defender services and for others contracted to provide nonattorney services.

(8) Contract attorneys may not take any money or benefit from an appointed client or from anyone for the benefit of the appointed client.

(9) ~~The commission director shall~~ limit the number of contract attorneys so that all contracted attorneys may be meaningfully evaluated.

(10) ~~The commission director shall implement rules requiring~~ ensure that there are procedures for conducting an evaluation of every contract attorney on a biennial basis by the chief contract manager based on written evaluation criteria.”

Section 34. Section 50-20-509, MCA, is amended to read:

“50-20-509. Procedure for judicial waiver of consent. (1) The requirements and procedures under this section are available to minors whether or not they are residents of this state.

(2) A minor may petition the youth court for a waiver of the requirement for consent and may participate in the proceedings on the minor’s own behalf. The petition must include a statement that the minor is pregnant and is not emancipated. The court may appoint a guardian ad litem for the minor. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the minor of the right to assigned counsel and shall order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel upon request.

(3) Proceedings under this section are confidential and must ensure the anonymity of the minor. All proceedings under this section must be sealed. The minor may file the petition using a pseudonym or using the minor’s initials. All documents related to the petition and the proceedings on the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the minor. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the requirement for consent is waived.

(4) If the court finds that the minor is competent to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the consent of a parent or legal guardian.

(5) The court shall issue an order authorizing the minor to consent to an abortion without the consent of a parent or legal guardian if the court finds that:

(a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the minor by one or both parents, a legal guardian, or a custodian; or

(b) the consent of a parent or legal guardian is not in the best interests of the minor.

(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

(8) The supreme court may adopt rules providing an expedited confidential appeal by a minor if the youth court denies a petition. An order authorizing an abortion without the consent of a parent or legal guardian is not subject to appeal.

(9) Filing fees may not be required of a minor who petitions a court for a waiver of the requirement for consent or who appeals a denial of a petition.”

Section 35. Section 53-9-104, MCA, is amended to read:

“53-9-104. (Temporary) Powers and duties of office. (1) The office shall:

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

(c) determine all matters relating to claims for compensation; and

(d) require any person contracting directly or indirectly with an individual convicted of a qualifying crime for any book, photograph, movie, television production, or play prepared for a commercial purpose that is based directly upon the crime or for the sale of an item owned or obtained by an individual convicted of a qualifying crime or obtained, produced, or gained directly through unique knowledge about the crime or preparation for the crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, to be held for a period of time that the office may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to reimburse the office of state public defender, provided for in ~~47-1-201~~ [section 1], for costs associated with providing assigned counsel for the charged person. Each victim and dependent of a deceased victim is entitled to actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the state for any public defender or any attorney assigned for the charged person must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113.

(2) The office may:

(a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data to enable the office to determine whether and the extent to which a claimant qualifies for compensation. A statute providing confidentiality for a claimant’s juvenile court records does not apply to proceedings under this part.

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant if the office has made reasonable efforts to obtain from the claimant a release of the records or information. No civil or criminal liability arises from the release of information requested under this subsection (2)(b).

(c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings, and receive relevant, nonprivileged evidence;

(d) take notice of judicially cognizable facts and general, technical, and scientific facts within its specialized knowledge;

(e) require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part; and

(f) establish a victims assistance coordinating and planning program. (Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

53-9-104. (Effective July 1, 2021) Powers and duties of office. (1) The office shall:

(a) adopt rules to implement this part;

(b) prescribe forms for applications for compensation;

(c) determine all matters relating to claims for compensation; and

(d) require any person contracting directly or indirectly with an individual convicted of a qualifying crime for any book, photograph, movie, television production, or play prepared for a commercial purpose that is based directly upon the crime or for the sale of an item owned or obtained by an individual convicted of a qualifying crime or obtained, produced, or gained directly through unique knowledge about the crime or preparation for the crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, to be held for a period of time that the office may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to reimburse the office of state public defender, provided for in ~~47-1-201~~ [section 1], for costs associated with providing assigned counsel for the charged person. Each victim and dependent of a deceased victim is entitled to actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the state for any public defender or any attorney assigned for the charged person must be deposited in the state general fund.

(2) The office may:

(a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data to enable the office to determine whether and the extent to which a claimant qualifies for compensation. A statute providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this part.

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant if the office has made reasonable efforts to obtain from the claimant a release of the records or information. No civil or criminal liability arises from the release of information requested under this subsection (2)(b).

(c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings, and receive relevant, nonprivileged evidence;

(d) take notice of judicially cognizable facts and general, technical, and scientific facts within its specialized knowledge;

(e) require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part; and

(f) establish a victims assistance coordinating and planning program."

Section 36. Section 53-20-112, MCA, is amended to read:

"53-20-112. Procedural rights – appointment of counsel. (1) A respondent has all the rights accorded to a person subject to involuntary commitment proceedings under the laws of this state relating to involuntary

commitment of a person who suffers from a mental disorder and who requires commitment, as provided in 53-21-115 through 53-21-118.

(2) In addition, the parents or guardian of a respondent has the right to:

- (a) be present at any hearing held pursuant to this part;
- (b) be represented by counsel in any hearing;
- (c) offer evidence and cross-examine witnesses in any hearing; and

(d) have the respondent examined by a professional of the parents' or guardian's choice when a professional is reasonably available unless the person chosen is objected to by the respondent or by a responsible person appointed by the court.

(3) Upon receipt of a petition for commitment, recommitment, or emergency commitment, the court shall order the office of the state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel for the respondent. If the parents are indigent and the parents request it or if the guardian is indigent and the guardian requests it, the court shall order the office of state public defender to assign counsel for the parents or guardian pending a determination of indigence pursuant to 47-1-111."

Section 37. Section 53-21-112, MCA, is amended to read:

"53-21-112. Voluntary admission of minors. (1) Notwithstanding any other provision of law, a parent or guardian of a minor may consent to mental health services to be rendered to the minor by:

- (a) a facility;
- (b) a person licensed in this state to practice medicine; or
- (c) a mental health professional licensed in this state.

(2) A minor who is at least 16 years of age may, without the consent of a parent or guardian, consent to receive mental health services from those facilities or persons listed in subsection (1).

(3) Except as provided by this section, the provisions of 53-21-111 apply to the voluntary admission of a minor to a mental health facility but not to the state hospital.

(4) Except as provided by this subsection, voluntary admission of a minor to a mental health facility for an inpatient course of treatment is for the same period of time as that for an adult. A minor voluntarily admitted with consent of the minor's parent or guardian has the right to be released within 5 days of a request by the parent or guardian as provided in 53-21-111(3). A minor who has been admitted without consent by a parent or guardian, pursuant to subsection (2), may also make a request and also has the right to be released within 5 days as provided in 53-21-111(3). Unless there has been a periodic review and a voluntary readmission consented to by the parent or guardian in the case of a minor patient or consented to by the minor alone in the case of a minor patient who is at least 16 years of age, voluntary admission terminates at the expiration of 1 year. At the minor's request or at any time that the minor is faced with potential legal proceedings, the court shall order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel for the minor."

Section 38. Section 53-21-116, MCA, is amended to read:

"53-21-116. Right to be present at hearing or trial -- assignment of counsel. The person alleged to be suffering from a mental disorder and requiring commitment has the right to be present and the right to counsel at any hearing or trial. If the person is indigent or if in the court's discretion assignment of counsel is in the best interest of justice, the judge shall order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to immediately assign counsel to represent the person at either the hearing or the trial, or both."

Section 39. Section 53-21-122, MCA, is amended to read:

“53-21-122. Petition for commitment – filing of – initial hearing on.

(1) The petition must be filed with the clerk of court who shall immediately notify the judge.

(2) (a) The judge shall consider the petition. If the judge finds no probable cause, the petition must be dismissed. If the judge finds probable cause and the respondent does not have private counsel present, the judge may order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to immediately assign counsel for the respondent, and the respondent must be brought before the court with the respondent’s counsel. The respondent must be advised of the respondent’s constitutional rights, the respondent’s rights under this part, and the substantive effect of the petition. The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person’s report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for in 53-21-1205 and 53-21-1206. The respondent may at this appearance object to the finding of probable cause for filing the petition. The judge shall appoint a professional person and set a date and time for the hearing on the petition that may not be on the same day as the initial appearance and that may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent.

(b) If the court finds that an appropriate person is willing and able to perform the functions of a friend of respondent as set out in this part and the respondent personally or through counsel consents, the court shall appoint the person as the friend of respondent. The friend of respondent may be the next of kin, the person’s conservator or legal guardian, if any, a representative of a charitable or religious organization, or any other person appointed by the court. Only one person may at any one time be the friend of respondent within the meaning of this part. The court may at any time, for good cause, change its designation of the friend of respondent. The court shall change the designation of the friend of respondent at the request of the respondent or if it determines that a conflict of interest exists between the respondent and the friend of respondent.

(3) If a judge is not available in the county in person, the clerk shall notify a resident judge by telephone and shall read the petition to the judge. The judge may do all things necessary through the clerk of court by telephone as if the judge were personally present, including ordering the office of state public defender, provided for in ~~47-1-201~~ [section 1], to immediately provide assigned counsel. The judge, through the clerk of court, may also order that the respondent be brought before a justice of the peace with the respondent’s counsel to be advised of the respondent’s constitutional rights, the respondent’s rights under this part, and the contents of the order, as well as to furnish the respondent with a copy of the order. The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person’s report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for in 53-21-1205 and 53-21-1206. The justice of the peace shall ascertain the desires of the respondent with respect to the assignment of counsel or the hiring of private counsel, pursuant to 53-21-116 and 53-21-117, and this information must be immediately communicated to the resident judge.”

Section 40. Section 53-24-302, MCA, is amended to read:

“53-24-302. Involuntary commitment of alcoholics – rights. (1) A person may be committed to the custody of the department by the district court upon the petition of the person’s spouse or guardian, a relative, the certifying physician, or the chief of any approved public treatment facility. The petition must allege that the person is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages and that the person has threatened, attempted, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another or is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition must be accompanied by a certificate of a licensed physician who has examined the person within 2 days before submission of the petition unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal must be alleged in the petition. The certificate must set forth the physician’s findings in support of the allegations of the petition. A physician employed by the admitting facility or the department is not eligible to be the certifying physician.

(2) Upon filing the petition, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, must be served on the petitioner, the person whose commitment is sought, the person’s next of kin other than the petitioner, a parent or the person’s legal guardian if the person is a minor, the administrator in charge of the approved public treatment facility to which the person has been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate must be delivered to each person notified.

(3) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person has a right to have a licensed physician of the person’s own choosing conduct an examination and testify on the person’s behalf. If the person has no funds with which to pay the physician, the reasonable costs of one examination and testimony must be paid by the county. The person must be present unless the court believes that the person’s presence is likely to be injurious to the person. The court shall examine the person in open court or, if advisable, shall examine the person in chambers. If the person refuses an examination by a licensed physician and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may make a temporary order committing the person to the department for a period of not more than 5 days for purposes of a diagnostic examination.

(4) If after hearing all relevant evidence, including the results of any diagnostic examination by the department, the court finds that grounds for involuntary commitment have been established by clear and convincing evidence, it shall make an order of commitment to the department. The court may not order commitment of a person unless it determines that the department is able to provide adequate and appropriate treatment for the person and that the treatment is likely to be beneficial.

(5) A person committed under this section must remain in the custody of the department for treatment for a period of 40 days unless sooner discharged. At the end of the 40-day period, the person must automatically be discharged unless before expiration of the period the department obtains a court order from the district court of the committing district for the person’s recommitment upon the grounds set forth in subsection (1) for a further period of 90 days unless sooner discharged. If a person has been committed because the person

is an alcoholic likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) A person recommitted under subsection (5) who has not been discharged by the department before the end of the 90-day period must be discharged at the expiration of that period unless before expiration of the period the department obtains a court order from the district court of the committing district on the grounds set forth in subsection (1) for recommitment for a further period not to exceed 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections (5) and (6) are permitted.

(7) Upon the filing of a petition for recommitment under subsection (5) or (6), the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, must be served on the petitioner, the person whose commitment is sought, the person's next of kin other than the petitioner, the original petitioner under subsection (1) if different from the petitioner for recommitment, one of the person's parents or the person's legal guardian if the person is a minor, and any other person the court believes advisable. At the hearing, the court shall proceed as provided in subsection (3).

(8) A person committed to the custody of the department for treatment must be discharged at any time before the end of the period for which the person has been committed if either of the following conditions is met:

(a) in case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that the person is no longer in need of treatment or the likelihood no longer exists; or

(b) in case of an alcoholic committed on the grounds of incapacity and the need of treatment, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(9) The court shall inform the person whose commitment or recommitment is sought of the person's right to contest the application, be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and have assigned counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, if the person wants the assistance of counsel and is unable to obtain private counsel. If the court believes that the person needs the assistance of counsel, the court shall order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel for the person regardless of the person's wishes. The person whose commitment or recommitment is sought must be informed of the right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(10) If a private treatment facility agrees with the request of a competent patient or the patient's parent, sibling, adult child, or guardian to accept the patient for treatment, the department may transfer the patient to the private treatment facility.

(11) A person committed under this section may at any time seek to be discharged from commitment by writ of habeas corpus or other appropriate means.

(12) The venue for proceedings under this section is the place in which the person to be committed resides or is present."

Section 41. Section 72-5-225, MCA, is amended to read:

“72-5-225. Procedure for court appointment of guardian of minor – notice – hearing – representation by attorney. (1) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor must be given by the petitioner in the manner prescribed by 72-1-301 to:

- (a) the minor, if the minor is 14 years of age or older;
- (b) the person who has had the principal care and custody of the minor during the 60 days preceding the date of the petition; and
- (c) any living parent of the minor.

(2) Upon hearing, the court shall make the appointment if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of 72-5-222 have been met, and the welfare and best interests of the minor, including the need for continuity of care, will be served by the requested appointment. In other cases, the court may dismiss the proceedings or make any other disposition of the matter that will best serve the interests of the minor.

(3) If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, the court may order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, to represent the minor.”

Section 42. Section 72-5-234, MCA, is amended to read:

“72-5-234. Procedure for resignation or removal – petition, notice, and hearing – representation by attorney. (1) Any person interested in the welfare of a ward or the ward, if 14 years of age or older, may petition for removal of a guardian on the ground that removal would be in the best interests of the ward. A guardian may petition for permission to resign. A petition for removal or for permission to resign may but need not include a request for appointment of a successor guardian.

(2) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate.

(3) If at any time in the proceeding the court determines that the interests of the ward are or may be inadequately represented, it may order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel under the provisions of the Montana Public Defender Act, Title 47, chapter 1, to represent the minor.”

Section 43. Section 72-5-315, MCA, is amended to read:

“72-5-315. Procedure for court appointment of guardian – hearing – examination – interview – procedural rights. (1) The incapacitated person or any person interested in the incapacitated person’s welfare, including the county attorney, may petition for a finding of incapacity and appointment of a guardian.

(2) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. The allegedly incapacitated person may have counsel of the person’s own choice or the court may, in the interest of justice, appoint an appropriate official or order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, to represent the person in the proceeding.

(3) The person alleged to be incapacitated must be examined by a physician appointed by the court who shall submit a report in writing to the court and must be interviewed by a visitor sent by the court. Whenever possible, the court shall appoint as visitor a person who has particular experience or expertise in treating, evaluating, or caring for persons with the kind of disabling condition

that is alleged to be the cause of the incapacity. The visitor shall also interview the person who appears to have caused the petition to be filed and the person who is nominated to serve as guardian and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made and submit the visitor's report in writing to the court. Whenever possible without undue delay or expense beyond the ability to pay of the alleged incapacitated person, the court, in formulating the judgment, shall utilize the services of any public or charitable agency that offers or is willing to evaluate the condition of the allegedly incapacitated person and make recommendations to the court regarding the most appropriate form of state intervention in the person's affairs.

(4) The person alleged to be incapacitated is entitled to be present at the hearing in person and to see or hear all evidence bearing upon the person's condition. The person is entitled to be present by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel requests it."

Section 44. Section 72-5-408, MCA, is amended to read:

"72-5-408. Procedure concerning hearing and order on original petition. (1) Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If at any time in the proceeding the court determines that the interests of the minor are or may be inadequately represented, the court may order the office of state public defender, provided for in ~~47-1-201~~ [section 1], to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, to represent the minor.

(2) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected has counsel of the person's own choice, the court shall order the office of state public defender, ~~provided for in 47-1-201~~, to assign counsel to represent the person pursuant to the Montana Public Defender Act, Title 47, chapter 1. If the alleged disability is mental illness or mental deficiency, the court may direct that the person to be protected be examined by a physician or professional person as defined in 53-21-102 designated by the court. If the alleged disability is physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court. It is preferable that a physician designated by the court not be connected with any institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer or employee of the court.

(3) In the case of an appointment pursuant to 72-5-410(1)(h), the court shall direct that the person to be protected be examined by a physician as set forth in subsection (2).

(4) After hearing, upon finding that a basis for the appointment of a conservator or other protective order has been established, the court shall make an appointment or other appropriate protective order."

Section 45. Repealer. The following section of the Montana Code Annotated is repealed:

2-15-1028. Public defender commission.

Section 46. Transition -- appointment of director of office of state public defender. (1) The director of the department of administration shall

hire the director of the office of state public defender by July 1, 2017. Within 30 days of [the effective date of this section], the public defender advisory commission shall submit a list of nominees for the position of director of the office of state public defender to the director of the department of administration. The director of the department of administration shall consider the nominees on the list but may hire a director whose name was not included on the list.

(2) By September 1, 2018, the office of state public defender shall report to the law and justice interim committee on the status of the termination of the public defender advisory commission.

Section 47. Codification instruction – instructions to code commissioner. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [section 1].

(2) [Sections 26 and 27] are intended to be codified as an integral part of Title 47, chapter 1, part 1, and the provisions of Title 47, chapter 1, part 1, apply to [sections 26 and 27].

(3) The code commissioner is instructed to:

(a) renumber 2-15-1028 and codify it in the same part as [section 1];

(b) renumber 47-1-210 and 47-1-216 and codify them in Title 47, chapter 1, part 1;

(c) renumber 47-1-205 and codify it in a new part 3 in Title 47, chapter 1;

(d) renumber 47-1-118 and codify it in a new part 4 in Title 47, chapter 1; and

(e) change all internal references within and to the renumbered sections in the Montana Code Annotated, including within sections enacted or amended by the 2017 legislature, to reflect the new section numbers assigned pursuant to this section.

Section 48. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 49. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Sections 1 and 46] and this section are effective on passage and approval.

Approved May 8, 2017

CHAPTER NO. 359

[HB 193]

AN ACT REVISING PUBLIC UTILITY ELECTRICITY COST RECOVERY; STANDARDIZING THE TREATMENT OF PUBLIC UTILITIES SUBJECT TO TITLE 69, CHAPTER 3; AMENDING SECTION 69-8-210, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-210, MCA, is amended to read:

“69-8-210. Public utilities – electricity supply cost tracking – environmentally preferred resources. (1) ~~The commission shall establish an electricity cost recovery mechanism that allows a public utility to fully recover prudently incurred electricity supply costs, subject to the provisions of 69-8-419, 69-8-420, and commission rules. The commission may include other utility costs and expenses in the cost recovery mechanism if it determines that~~

including additional costs and expenses is reasonable and in the public interest. ~~The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences~~ *approve a cost-tracking adjustment for a public utility regulated under this part consistent with its regulation of public utilities under Title 69, chapter 3.*

(2) Notwithstanding any service options that the commission may require, a public utility shall offer its customers the option of purchasing a product composed of or supporting power from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and biomass, subject to review and approval by the commission. The commission shall ensure that these resources have been certified as meeting industry-accepted standards.”

Section 2. Effective date. [This act] is effective July 1, 2017.

Approved May 8, 2017

CHAPTER NO. 360

[HB 228]

AN ACT REVISING FUNDING FOR THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; DECREASING PREVIOUS TRANSFERS AND APPROPRIATIONS; PROVIDING FOR FUTURE TRANSFERS AND STATUTORY APPROPRIATIONS; ALLOWING FUNDING TO BE USED FOR ADMINISTRATIVE PURPOSES; AMENDING SECTIONS 15-1-122, 17-1-508, 17-7-502, AND 76-22-109, MCA, AND SECTION 18, CHAPTER 445, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-122, MCA, is amended to read:

“15-1-122. (Bracketed language effective July 1, 2021) Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For fiscal years 2016 through 2019, there is transferred \$1.275 million on an annual basis from the state general fund to the research and commercialization state special revenue account provided for in 90-3-1002.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and

(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(4) The amount of \$200,000 is transferred from the state general fund to the livestock loss [reduction and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

(5) For fiscal years 2018 through 2021, there is transferred \$2 million on an annual basis from the state general fund to the sage grouse stewardship account provided for in 76-22-109.

~~(5)~~(6) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

~~(6)~~(7) Except as provided in ~~subsection~~ *subsections (2) and (5)*, the amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes. (Bracketed language in subsection (4) effective July 1, 2021--sec. 8, Ch. 349, L. 2015.)"

Section 2. Section 17-1-508, MCA, is amended to read:

"17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in 76-22-109 and 77-1-108, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

- (a) the money is from a continuing, reliable, and estimable source;
- (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;
- (c) the authority exists elsewhere;
- (d) an alternative appropriation method is available, practical, or effective;
- (e) it appropriates state general fund money for purposes other than paying for emergency services;
- (f) the money is used for general purposes;
- (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- (h) an expenditure cap and sunset date are excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.”

Section 3. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to

sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 4. Section 76-22-109, MCA, is amended to read:

"76-22-109. Sage grouse stewardship account. (1) There is a sage grouse stewardship account in the state special revenue fund established in 17-2-102. ~~Subject to appropriation by the legislature, money~~ Money deposited in the account *is statutorily appropriated, as provided in 17-7-502, and* must be used *for the administration of* and pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people.

(2) The following funds must be deposited in the account:

(a) *each fiscal year, the amount provided in 15-1-122 that is transferred to the account from the state general fund;*

(a)(b) money received by the department in the form of grants, gifts, transfers, bequests, payments for credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account; and

(b)(c) any interest or income earned on the account.

(3) Subject to subsections (4) and (5), the department shall make disbursements from the account to projects approved by the oversight team to receive grants.

(4) The majority of the funds in the account may not be disbursed before the habitat quantification tool has been adopted. The habitat quantification tool must be applied to any project funded after the habitat quantification tool has been adopted. The majority of the account funds must be awarded to projects that generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per dollars of funds awarded.

(5) Money deposited in the account may not be used:

- (a) for fee simple acquisition of private land;
- (b) to purchase water rights;
- (c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms; or
- (d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq.

(6) *Administrative costs paid from the account are limited to \$400,000 in each fiscal year.*

(6)(7) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.”

Section 5. Section 76-22-109, MCA, is amended to read:

“76-22-109. Sage grouse stewardship account. (1) There is a sage grouse stewardship account in the state special revenue fund established in 17-2-102. ~~Subject to appropriation by the legislature, money~~ Money deposited in the account ~~is statutorily appropriated, as provided in 17-7-502, and~~ must be used ~~for the administration of and~~ pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people.

(2) The following funds must be deposited in the account:

(a) money received by the department in the form of grants, gifts, transfers, bequests, payments for credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account; and

(b) any interest or income earned on the account.

(3) Subject to subsections (4) and (5), the department shall make disbursements from the account to projects approved by the oversight team to receive grants.

(4) The majority of the funds in the account may not be disbursed before the habitat quantification tool has been adopted. The habitat quantification tool must be applied to any project funded after the habitat quantification tool has been adopted. The majority of the account funds must be awarded to projects that generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per dollars of funds awarded.

(5) Money deposited in the account may not be used:

- (a) for fee simple acquisition of private land;
- (b) to purchase water rights;
- (c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms; or
- (d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq.

(6) *Administrative costs paid from the account are limited to \$400,000 in each fiscal year.*

(6)(7) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.”

Section 6. Section 18, Chapter 445, Laws of 2015, is amended to read:

“Section 18. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved, then:

- (1) [sections 14 and 15 of this act] are void;
- (2) the general fund appropriation to the department of natural resources and conservation for the sage grouse conservation fund contained in House Bill No. 2 is void;

(3) for the biennium beginning July 1, 2015, \$10 \$2 million is transferred from the general fund to the sage grouse stewardship account established in [section 7 of this act]; and

(4) for the biennium beginning July 1, 2015, \$10 \$2 million is appropriated from the sage grouse stewardship account established in [section 7 of this act] to the department of natural resources and conservation for the purposes of [this act]. If the United States fish and wildlife service lists the greater sage-grouse (*Centrocercus urophasianus*) as endangered under the Endangered Species Act, 16 U.S.C. 1531, et seq., any unencumbered portion of the appropriation made pursuant to this subsection (4) must revert to the general fund.”

Section 7. Effective date. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 5] is effective July 1, 2021.

Section 8. Termination. [Sections 1 and 4] terminate June 30, 2021.

Approved May 8, 2017

CHAPTER NO. 361

[HB 360]

AN ACT ESTABLISHING THE SURFACE WATER ASSESSMENT AND MONITORING PROGRAM; AND PROVIDING PROGRAM DUTIES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Surface water assessment and monitoring program – steering committee. (1) The Montana bureau of mines and geology shall develop and implement a surface water assessment and monitoring program for the purpose of collecting and compiling surface water information. The bureau shall gather data, compile existing information, conduct field studies, and prepare a detailed hydrogeologic assessment report for each subbasin. The bureau shall develop a monitoring plan and a hydrogeologic model for each subbasin for which a report is prepared.

(2) (a) There is a surface water assessment and monitoring program steering committee consisting of:

(i) an employee of each of the following state agencies that have responsibility for surface water protection, management, or information who is appointed by the head of the respective state agency:

(A) the department of natural resources and conservation;

(B) the department of environmental quality;

(C) the department of agriculture; and

(D) the Montana state library, natural resource information system; and

(ii) at least one representative of tribal governments in Montana, appointed by the governor.

(b) The committee may include representatives of the following agencies and units of government with expertise or management responsibility related to surface water:

(i) the legislative services division;

(ii) the board of oil and gas conservation;

(iii) the Montana bureau of mines and geology;

(iv) a soil and water conservation district;

(v) a unit of the Montana university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the university system;

(vi) a county government, appointed by an organization of Montana counties;

(vii) a city, town, or city-county government, appointed by an organization of Montana cities and towns; and

(viii) each principal federal agency that has responsibility for surface water protection, management, or research, appointed by the Montana head of the respective federal agency.

(c) The committee may include one representative of each of the following organizations and groups, appointed by the governor, to serve as ex officio members:

(i) agricultural water users;

(ii) industrial water users;

(iii) a conservation or ecological protection organization; and

(iv) the development community.

(3) The steering committee shall prioritize subbasins for investigation based on current and anticipated growth of agriculture, industry, housing, and commercial activity. Permit applications for the development of surface water or ground water and the timing of the adjudication of water rights may be taken into account when prioritizing subbasins.

(4) The steering committee shall elect a presiding officer from its voting members.

(5) The Montana bureau of mines and geology shall provide staff support to the steering committee.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 85, and the provisions of Title 85 apply to [section 1].

Approved May 8, 2017

CHAPTER NO. 362

[HB 416]

AN ACT REVISING LAWS GOVERNING LOCAL GOVERNMENT SUBDIVISION REVIEW DECISIONS; REQUIRING FINDINGS OF FACT IN LOCAL GOVERNMENT REVIEW TO BE BASED ON THE RECORD AS A WHOLE; CLARIFYING WHEN A DECISION MADE BY A GOVERNING BODY MUST BE SUSTAINED WHEN CHALLENGED; CLARIFYING WHAT STANDARDS OF REVIEW APPLY TO AN ENVIRONMENTAL ASSESSMENT; AND AMENDING SECTIONS 76-3-603, 76-3-608, AND 76-3-625, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-603, MCA, is amended to read:

“76-3-603. Contents of environmental assessment. (1) When required, the environmental assessment must accompany the subdivision application and must include:

(1)(a) for a major subdivision:

(a)(i) a description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision;

(b)(ii) a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608; and

(c)(iii) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and

busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and

(d)(iv) additional relevant and reasonable information related to the applicable regulatory criteria adopted under 76-3-501 as may be required by the governing body;

(2)(b) except as provided in 76-3-609, for a minor subdivision, a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608.

(2) *An environmental assessment conducted pursuant to this chapter is distinct from an environmental review conducted pursuant to Title 75, chapter 1. The standards of review applicable to an environmental review conducted pursuant to Title 75, chapter 1, do not apply to an environmental assessment conducted pursuant to this chapter.*

Section 2. Section 76-3-608, MCA, is amended to read:

“76-3-608. Criteria for local government review. (1) The basis for the governing body’s decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision’s impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner’s ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

(6) A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce.

(7) A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder.

(8) A governing body may not approve a proposed subdivision if any of the features and improvements of the subdivision encroach onto adjoining private property in a manner that is not otherwise provided for under chapter 4 or this chapter or if the well isolation zone of any proposed well to be drilled for the proposed subdivision encroaches onto adjoining private property unless the owner of the private property authorizes the encroachment. For the purposes of this section, "well isolation zone" has the meaning provided in 76-4-102.

(9) If a federal or state governmental entity submits a written or oral comment or an opinion regarding wildlife, wildlife habitat, or the natural environment relating to a subdivision application for the purpose of assisting a governing body's review, the comment or opinion may be included in the governing body's written statement under 76-3-620 only if the comment or opinion provides scientific information or a published study that supports the comment or opinion. A governmental entity that is or has been involved in an effort to acquire or assist others in acquiring an interest in the real property identified in the subdivision application shall disclose that the entity has been involved in that effort prior to submitting a comment, an opinion, or information as provided in this subsection.

(10) *Findings of fact by the governing body concerning whether the development of the proposed subdivision meets the requirements of this chapter must be based on the record as a whole. The governing body's findings of fact must be sustained unless they are arbitrary, capricious, or unlawful.*

Section 3. Section 76-3-625, MCA, is amended to read:

"76-3-625. Violations -- actions against governing body. (1) A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter ~~that is arbitrary or capricious.~~ *The governing body's decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.*

(2) A party identified in subsection (3) who is aggrieved by a *a* decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made. *The governing body's*

decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(3) The following parties may appeal under the provisions of subsection (2):

(a) the subdivider;

(b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;

(c) the county commissioners of the county where the subdivision is proposed; and

(d) (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;

(ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and

(iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

(4) For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision."

Approved May 8, 2017

CHAPTER NO. 363

[HB 445]

AN ACT REVISING LOCAL SUBDIVISION REVIEW LAWS; PROVIDING FOR PHASED DEVELOPMENT FOR WHICH A SUBDIVIDER MAY APPLY TO A LOCAL GOVERNING BODY; REQUIRING THAT A PHASED DEVELOPMENT APPLICATION INCLUDE INFORMATION ON ALL PROPOSED PHASES AND A SCHEDULE FOR REVIEW OF EACH PHASE; REQUIRING THAT ALL PHASES OF A PHASED DEVELOPMENT BE SUBMITTED FOR REVIEW AND ACTED ON WITHIN A CERTAIN TIME; REQUIRING A PUBLIC HEARING FOR REVIEW OF EACH PHASE AND REQUIRING A GOVERNING BODY TO CONSIDER CHANGED PRIMARY CRITERIA IMPACTS OR NEW INFORMATION WHEN REVIEWING EACH PHASE; ALLOWING A GOVERNING BODY TO IMPOSE NECESSARY, ADDITIONAL CONDITIONS ON APPROVAL OF EACH PHASE; ALLOWING A GOVERNING BODY TO CHARGE A FEE FOR REVIEW OF PHASES IN A PHASED DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-3-102, 76-3-103, AND 76-8-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-102, MCA, is amended to read:

"76-3-102. Statement of purpose. It is the purpose of this chapter to:

(1) promote the public health, safety, and general welfare by regulating the subdivision of land;

(2) prevent overcrowding of land;

(3) lessen congestion in the streets and highways;

(4) provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;

(5) require development in harmony with the natural environment;

- (6) promote preservation of open space;
- (7) promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
- (8) protect the rights of property owners; **and**
- (9) require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey; **and**
- (10) *provide for phased developments.*"

Section 2. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) *"Phased development" means a subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.*

~~(10)~~(11) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

~~(11)~~(12) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

~~(12)~~(13) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13)(14) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(14)(15) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15)(16) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(16)(17) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(17)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Section 3. Phased development – application requirements – hearing required. (1) A subdivider applying for phased development review shall submit with the phased development application an overall phased development preliminary plat on which independent platted development phases must be presented. The phased development application must contain the information required pursuant to parts 5 and 6 of this chapter for all phases of a development and a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the governing body after a public hearing as provided in subsection (4) if the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

(2) Except as otherwise provided by this section, the phased development application must be reviewed in conformity with parts 5 and 6 of this chapter. In addition, each phase of the phased development must be reviewed as provided in subsection (4).

(3) The governing body may approve phased developments that extend beyond the time limits set forth in 76-3-610 but all phases of the phased

development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is approved by the governing body.

(4) Prior to the commencement of each phase, the subdivider shall provide written notice to the governing body. The governing body shall hold a public hearing pursuant to 76-3-605(3) within 30 working days after receipt of the written notice from the subdivider. After the hearing, the governing body shall determine whether any changed primary criteria impacts or new information exist that create new potentially significant adverse impacts for the phase or phases. Notwithstanding the provisions of 76-3-610(2), the governing body shall issue supplemental written findings of fact within 20 working days of the hearing and may impose necessary, additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary criteria impacts or new information. Any additional conditions must be met before final plat approval for each particular phase and the approval in accordance with 76-3-611 is in force for not more than 3 calendar years or less than 1 calendar year within the maximum time frame provided in subsection (3).

(5) The governing body may impose a reasonable periodic fee for the review under subsection (4) of the phases in the phased development.

Section 4. Section 76-8-101, MCA, is amended to read:

“76-8-101. Definitions. As used in this part, the following definitions apply:

(1) “Building” means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in 76-3-103~~(15)~~(16) the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

(2) “Department” means the department of environmental quality provided for in 2-15-3501.

(3) “Governing body” means the legislative authority for a city, town, county, or consolidated city-county government.

(4) “Landowner” means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) “Local reviewing authority” means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) “Supermajority” means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;

(b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) “Tract” means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder’s office.”

Section 5. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 76, chapter 3, part 6, and the provisions of Title 76, chapter 3, part 6, apply to [section 3].

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Applicability. [This act] applies to phased development applications submitted on or after [the effective date of this act].

Approved May 8, 2017

CHAPTER NO. 364

[HB 639]

AN ACT REVISING FUNDING FOR HEALTH CARE SERVICES; ADJUSTING THE CONVERSION FACTOR FOR PHYSICIAN SERVICES REIMBURSEMENT; IMPLEMENTING PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; PROVIDING MEDICAID CASELOAD RESTRICTIONS; PROVIDING LIMITATIONS ON TRANSFERS OF FUNDING FOR THE MONTANA DEVELOPMENTAL CENTER; ESTABLISHING A TEMPORARY COMMUNITY BENEFIT ASSESSMENT FOR CERTAIN HOSPITALS; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 53-6-125, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Medicaid caseload contingent funding -- restrictions. (1) The appropriations to the department of public health and human services in House Bill No. 2, under “Medicaid Caseload Contingency” only occur:

(a) for fiscal year 2018, if nonrestricted general fund expenditures for the department, including accruals, exceed \$501,016,552 during the fiscal year; and

(b) for fiscal year 2019, if nonrestricted general fund expenditures for the department, including accruals, exceed \$514,663,100 during the fiscal year.

(2) The House Bill No. 2 appropriation amounts provided for in subsections (1)(a) and (1)(b) are based on the amount of nonrestricted general fund appropriations for fiscal years 2018 and 2019. The amounts of \$501,016,552 for fiscal year 2018 and \$514,663,100 for fiscal year 2019 are superseded by the total of nonrestricted general fund appropriations for each separate fiscal year, as reflected in House Bill No. 2 as passed and approved.

Section 2. Montana developmental center – requirements. The appropriation to the department of public health and human services in House Bill No. 2, under “Montana Developmental Center” is restricted to the following:

(a) expenditures at the Montana developmental center; or

(b) transfers pursuant to subsection (2).

(2) The department may transfer from “Montana Developmental Center” for other necessary services for individuals served or who would have otherwise been served at the Montana Developmental Center.

(3) If the department transfers funding or full-time equivalents from the appropriation under “Montana Developmental Center”, the department must notify the legislative finance committee and the legislative fiscal analyst.

(4) Any information that is confidential or personally identifiable provided pursuant to this section may only be communicated to the legislative fiscal analyst, who will not release the information pursuant to 5-12-303.

Section 3. Indian health services federal revenue account.

(1) There is an account in the federal special revenue fund established pursuant to 17-2-102 to be known as the Indian health service federal revenue account.

(2) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of public health and human services for medicaid benefits for Indian health services or tribal health services.

Section 4. Hospital community benefit assessment. (1) A hospital shall pay to the department of public health and human services a hospital community benefit assessment no later than June 29 of fiscal years 2017, 2018, and 2019. All proceeds from the assessment must be deposited into the general fund.

(2) For purposes of this section, “hospital” means a facility licensed as a hospital pursuant to Title 50, chapter 5, and does not include a critical access hospital, a children’s psychiatric hospital, or the Montana state hospital.

(3) The following amounts are imposed as the annual community benefit assessment:

- (a) for Advanced Care Hospital in Billings, \$122,000;
- (b) for Benefis Health System in Great Falls, \$696,600;
- (c) for Billings Clinic, \$835,300;
- (d) for Bozeman Health Big Sky Medical Center, \$2,900;
- (e) for Bozeman Health, \$242,000;
- (f) for Community Medical Center in Missoula, \$278,000;
- (g) for Great Falls Clinic Medical Center, \$16,790;
- (h) for Health Center Northwest, \$19,100;
- (i) for Kalispell Regional Medical Center, \$420,180;
- (j) for Northern Montana Hospital in Havre, \$51,400;
- (k) for St. James Healthcare in Butte, \$139,900;
- (l) for Providence St. Patrick Hospital in Missoula, \$534,200;
- (m) for St. Peter’s Hospital in Helena, \$345,225; and
- (n) for St. Vincent Healthcare in Billings, \$647,180.

Section 5. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; [section 3]; 53-6-1304; 53-9-113;

53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 6. Section 53-6-125, MCA, is amended to read:

"53-6-125. Physician services reimbursement. (1) The fee for a covered service provided by a physician under the medicaid program is determined by multiplying the conversion factor times the relative value unit for that service times any applicable policy adjusters.

(2) (a) ~~For state fiscal years 2011 through 2013, the conversion factor is \$40.09. The conversion factor may be adjusted by the department in order to maintain reimbursement, at a minimum, at the fiscal year 2010 reimbursement rate;~~

(b) ~~For state fiscal year 2014 and for each subsequent state fiscal year, the For fiscal years 2018 and 2019, the conversion factor must be increased, at a minimum, at a minimum, by the same percentage increase as the consumer price index for medical care for the previous year, as calculated by the bureau of labor statistics of the United States department of labor by the same numerical inflation factor calculated in accordance with 20-9-326.~~

(b) For each subsequent fiscal year, the conversion factor must be increased, at a minimum, by the same percentage increase as the consumer price index for medical care for the previous year, as calculated by the bureau of labor statistics of the United States department of labor.”

Section 7. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [section 3].

Section 8. Coordination instruction. If House Bill No. 2 and [this act] are both passed and approved and [this act] contains a statutory appropriation for Indian health services and tribal health services funding, the appropriation for the health resources division in House Bill No. 2 is decreased by \$82,373,231 in federal funds in fiscal year 2018 and by \$94,556,232 in federal funds in fiscal year 2019.

Section 9. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the following line item is inserted in Section B of House Bill No. 2 under “Director’s Office”:

“b. Tracking Operational and Performance Program Measures (OTO/Biennial)

\$100,000 [General Fund FY 2018] \$100,000 [Federal Special Revenue FY 2018]

\$100,000 [General Fund FY 2019] \$100,000 [Federal Special Revenue FY 2019].”

Section 10. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the following language must be inserted in Section B of House Bill No. 2 under “Department of Public Health and Human Services”:

“Tracking Operational and Performance Program Measures must be utilized for the analysis and creation of a metrics-based blueprint for select department of public health and human service programs, with a primary focus on the child and family services division and a specified initiative identified as having a high impact on the health of Montanans, and for the department to track operational and program performance measures related to the following:

(1) improved health of women and children, including:

(a) proportion of women smoking during pregnancy;

(b) proportion of pregnant women who report entering prenatal care in the first trimester;

(c) proportion of pregnant women receiving medicaid services who report entering prenatal care in the first trimester;

(d) proportion of high school students using tobacco products or nicotine products in the past 30 days;

(2) improved health of medicaid members, including the proportion of medicaid members receiving preventative services;

(3) operational efficiencies, including:

(a) proportion of payments issued electronically; and

(b) proportion of help desk tickets to technologically support the workforce; and

(4) the efficacy of the protect Montana kids commission proposals that were enacted by the 65th legislature.”

Section 11. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the general fund appropriation to the department of public health and human services under “Human and Community Services Division” in Section B of House Bill No. 2 must be increased from \$33,087,934 to \$36,087,934 in the fiscal year beginning July

1, 2017, and increased from \$33,049,762 to \$36,049,762 in the fiscal year beginning July 1, 2018.

Section 12. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the following language must be inserted in Section B of House Bill No. 2 under “Human and Community Services Division”:

“The increased appropriations provided in [section 11 of House Bill No. 639] to the Stars to Quality Program are one time only and are not to be included in the base in the 2021 budget planning process. The increased appropriations are to expand the program and increase access to preschool for 4- and 5-year-old children. The department shall use the money to create and support pilot programs to test multiple delivery models, including public programs, private programs, and mixed delivery programs through public-private partnerships. The department may use funds to support preschool programs, including startup and training costs. In establishing the pilot programs, the department shall ensure that pilot programs are included in programs in rural and urban areas. The department shall file a report with the 2019 legislature and present the report to the education and local government committee, the legislative finance committee, and the children, families, health, and human services committee by September 1, 2018. The report must:

(1) address the demand for programs and the impact on current providers, with a specific focus on rural communities;

(2) evaluate the benefits and disadvantages of various delivery models;

(3) analyze advancements in kindergarten readiness for children participating in the programs; and

(4) make recommendations for the program.”

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Section 4] and this section are effective on passage and approval.

Section 15. Termination. [Section 4] terminates June 30, 2019.

Approved May 8, 2017

CHAPTER NO. 365

[SB 163]

AN ACT REVISING QUALIFICATIONS FOR ELECTION JUDGES; PROVIDING THAT ELECTION JUDGES MUST BE CHOSEN FROM LISTS OF QUALIFIED ELECTORS IN A COUNTY; REVISING PROVISIONS RELATED TO CANDIDATES OR RELATIVES SERVING AS ELECTION JUDGES; AND AMENDING SECTIONS 13-4-102, 13-4-103, 13-4-107, AND 13-13-226, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-4-102, MCA, is amended to read:

“13-4-102. Manner of choosing election judges. (1) Subject to 13-4-107, election judges must be chosen from lists of qualified registered electors ~~for each precinct~~ in the county, submitted at least 45 days before the primary election in even-numbered years by the county central committees of the political parties eligible to nominate candidates in the primary.

(2) The list of each party may contain more names than the number of election judges to be appointed. The names of those not appointed as election judges must be given to the election administrator for use in making appointments to fill vacancies.

(3) Each board of election judges must include judges representing all parties that have submitted lists as provided in subsection (1). No more than the number of election judges needed to obtain a simple majority may be appointed from the list of one political party in each ~~precinct~~ *county*. If any of the political parties entitled to do so fail to submit a list meeting the requirements of this section, the governing body shall, to the extent possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

(4) The election administrator shall make appointments to fill vacancies from the list provided for in subsection (2). ~~If the list is insufficient or if one or more of the eligible political parties fails to submit a list meeting the requirements of this section, the election administrator may select enough people meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts. If the list is insufficient or if one or more of the eligible political parties fails to submit a list meeting the requirements of this section, the election administrator may select enough people meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts.~~

(5) An elector chosen to potentially serve as an election judge must be notified of selection at least 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-103."

Section 2. Section 13-4-103, MCA, is amended to read:

"13-4-103. Judges to serve until others appointed. The election judges continue to be judges of all elections held in their ~~precincts~~ *county* until other judges are appointed."

Section 3. Section 13-4-107, MCA, is amended to read:

"13-4-107. Qualifications of election judges. (1) Election judges shall be registered electors of the county ~~and of the precinct~~ in which they serve; ~~except as provided in 13-4-102(4).~~

(2) No election judge may be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or a candidate's spouse or the spouse of any of these in an election precinct where the candidate's name appears on the ballot. However, this does not apply to candidates for precinct offices.

(3) *If a polling place for a precinct is located in the same venue as one or more other precincts, a candidate whose name appears on any ballot being voted on within the venue, an ascendant, descendant, brother, sister, or spouse of the candidate, or a spouse of an ascendant, descendant, brother, or sister of the candidate may not serve as an election judge within the venue."*

Section 4. Section 13-13-226, MCA, is amended to read:

"13-13-226. Manner of selection. The election administrator may make appointments to an absentee election board from lists of qualified electors *in the county* prepared in substantially the same manner as provided in 13-4-102. ~~If the list is insufficient to make all the appointments required, the election administrator may appoint any qualified registered elector from the county.~~ The election administrator may refuse for cause to appoint or may for cause remove a member of an absentee election board."

Approved May 8, 2017

CHAPTER NO. 366

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2017, AND FOR THE BIENNIUM ENDING JUNE 30, 2019; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [This act] may be cited as “The General Appropriations Act of 2017”.

Section 2. First level expenditures. The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2019 biennium, are adopted as legislative intent.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

Section 4. Appropriation control. (1) An appropriation item designated “Biennial” may be spent in either year of the biennium. An appropriation item designated “Restricted” may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated “One Time Only” or “OTO” may not be included in the present law base for the 2021 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated “Biennial”, “Restricted”, “One Time Only”, or “OTO”. The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

(2) The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for the funding included in each executive branch agency’s budget to pay fixed cost allocations to the state information technology services division of the department of administration. The appropriations must be designated as restricted.

(3) The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for the funding included in each executive branch agency’s budget to pay fixed cost allocations for rent in the capitol complex to the general services division of the department of administration. The appropriations must be designated as restricted.

Section 5. Program definition. As used in [this act], “program” has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinarily numbered with an Arabic numeral.

Section 6. Personal services funding – 2021 biennium. (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2019 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding of first level personal services by fund or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2021 biennium submitted by November 1 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

Section 7. Legislative Intent. The appropriations contained in [this act] do not include any funding for increased rent or lease payments on office, warehouse, or other similar space unless specifically expressed in a legislative line item or change package in the accompanying House Bill No. 2 narrative. It is the intent of the legislature that state agencies are precluded from enacting any inflation provisions for rent or lease agreements or entering into new rent or lease agreements that include automatic inflation adjusters.

Section 8. Totals not appropriations. The totals shown in [this act] are for informational purposes only and are not appropriations.

Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Section 10] is effective on passage and approval.

Section 10. Appropriation. For the biennium ending June 20, 2017, there is appropriated \$2 million from the general fund to the office of state public defender.

Section 11. Appropriations. The following money is appropriated for the respective fiscal years:

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
A. GENERAL GOVERNMENT						
LEGISLATIVE BRANCH (11040)						
1. Legislative Services (20) (Biennial)						
8,381,891	439,208	0	0	8,821,099	372,562	0
2. Legislative Committees and Activities (21) (Biennial)						
745,653	0	0	0	745,653	0	0
3. Fiscal Analysis and Review (27) (Biennial)						
1,953,403	0	0	0	1,953,403	0	0
4. Audit and Examination (28) (Biennial)						
2,307,341	1,794,115	0	0	4,101,456	1,836,949	0
Total						
13,388,288	2,233,323	0	0	15,621,611	2,209,511	0
It is the intent of the legislature that the legislative finance committee include a study of enterprise, data storage, and network services as part of its 2019 biennium interim work. In addition, as part of the study, the legislative finance committee shall include a customer satisfaction survey to assess agency needs and challenges that may need to be addressed by the state information technology services division of the department of administration.						
CONSUMER COUNSEL (11120)						
1. Administration Program (01)						
0	1,480,938	0	0	1,480,938	0	0
a. Caseload Contingency (Biennial)						
0	150,000	0	0	150,000	0	0
Total						
0	1,630,938	0	0	1,630,938	0	0

It is the intent of the legislature to consider the 2021 biennium budget for the Consumer Counsel from zero to the full recommended budget. The Consumer Counsel shall explain the necessity of personal services, operating expenses, and caseload contingency, including the base budget for the budget submission for the 2021 biennium budget.

General Fund	State Special Revenue	Fiscal 2018			Total	General Fund	State Special Revenue	Fiscal 2019			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
89,555	0	0	0	0	89,555	89,621	0	0	0	0	89,621
Total											
769,674	0	0	0	0	769,674	760,500	0	0	0	0	760,500
If the governor appoints and the majority of the senate confirms a commissioner of political practices who is an attorney licensed to practice law in Montana, the appropriation for Legal Services is void.											
OFFICE OF THE STATE AUDITOR (34010)											
1. Central Management (01)											
0	2,141,578	0	0	0	2,141,578	0	2,145,309	0	0	0	2,145,309
a. Legislative Audit (Restricted/Biennial)											
0	10,855	0	0	0	10,855	0	0	0	0	0	0
2. Insurance Program (03)											
0	5,078,203	0	0	0	5,078,203	0	5,123,571	0	0	0	5,123,571
a. Legislative Audit (Restricted/Biennial)											
0	29,102	0	0	0	29,102	0	0	0	0	0	0
3. Securities (04)											
0	1,141,553	0	0	0	1,141,553	0	1,143,923	0	0	0	1,143,923
a. Legislative Audit (Restricted/Biennial)											
0	6,837	0	0	0	6,837	0	0	0	0	0	0
Total											
0	8,408,128	0	0	0	8,408,128	0	8,412,803	0	0	0	8,412,803
DEPARTMENT OF REVENUE (58010)											
1. Director's Office (01)											
13,555,277	121,670	0	374,237	0	14,051,184	13,766,795	123,073	0	375,640	0	14,265,508
a. Legislative Audit (Restricted/Biennial)											
0	0	0	0	0	0	0	0	0	0	0	0
184,911					184,911						

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
2. Liquor Control Division (03)						
a. Termination Payouts (Restricted/OTO)	0	0	2,788,254	0	0	2,795,578
b. Overtime (Restricted/OTO)	0	0	60,000	0	0	60,000
3. Citizen Services and Resource Management (05)						
a. Business and Income Taxes Division (07)	8,463,609	205,381	8,708,993	8,479,537	205,381	8,724,921
b. Property Assessment Division (08)	10,151,574	618,130	11,032,688	10,209,315	619,978	11,092,893
c. Liquor Control Division (03)	20,586,989	14,301	20,601,290	20,646,835	14,301	20,661,136
Total	52,942,360	959,482	57,492,320	53,102,482	962,733	57,665,036
Liquor Control Division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profits and taxes to appropriate accounts are appropriated from the liquor enterprise fund to the department in the amounts not to exceed \$151 million in fiscal year 2018 and \$158 million in fiscal year 2019. These costs are used to maintain adequate inventories necessary to meet statutory requirements, to pay freight costs, and to transfer profits and taxes to appropriate accounts.						
DEPARTMENT OF ADMINISTRATION (61010)						
1. Director's Office (01)						
a. Legislative Audit (Restricted/Biennial)	410,384	0	423,091	411,723	0	424,430
2. State Financial Services Division (03)						
a. Legislative Audit (Restricted/Biennial)	66,969	0	66,969	0	0	0
b. Property Assessment Division (08)	2,553,651	190,845	2,801,296	2,562,744	191,107	2,810,651
c. Liquor Control Division (03)	0	186	186	0	0	0

	Fiscal 2018				Total	Fiscal 2019				Total	
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other		General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other		
b. Supplemental State Contribution (Restricted/OTO)											
1,649,000	0	0	0	0	1,649,000	1,657,000	0	0	0	1,657,000	
3. Architecture and Engineering Division (04)											
0	2,159,628	0	0	0	2,159,628	0	2,169,386	0	0	2,169,386	
a. Legislative Audit (Restricted/Biennial)											
0	2,661	0	0	0	2,661	0	0	0	0	0	
4. State Information Technology Services Division (07)											
430,304	273,710	0	0	0	704,014	431,644	274,155	0	0	705,799	
a. Legislative Audit (Restricted/Biennial)											
244	0	0	0	0	244	0	0	0	0	0	
b. FirstNet Planning Grant (Biennial)											
0	0	1,063,950	0	0	1,063,950	0	0	102,190	0	102,190	
c. ISP Contract Restriction Implementation (Restricted/Biennial/OTO)											
7,500	0	0	0	0	7,500	7,500	0	0	0	7,500	
5. Banking and Financial Institutions Division (14)											
0	3,973,678	0	0	0	3,973,678	0	3,984,236	0	0	3,984,236	
a. Legislative Audit (Restricted/Biennial)											
0	4,933	0	0	0	4,933	0	0	0	0	0	
6. Montana State Lottery (15)											
0	0	0	5,026,915	0	5,026,915	0	0	0	5,035,556	5,035,556	
a. Legislative Audit (Restricted/Biennial)											
0	0	0	125,752	0	125,752	0	0	0	0	0	
7. State Human Resources Division (23)											
1,618,528	0	0	0	0	1,618,528	1,627,061	0	0	0	1,627,061	
8. Montana Tax Appeal Board (37)											
616,241	0	0	0	0	616,241	616,190	0	0	0	616,190	
Total											
7,352,821	6,605,641	1,078,084	5,208,040	0	20,244,586	7,313,862	6,618,884	116,324	5,090,929	0	19,139,999

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
			Total			Total
			Proprietary		Proprietary	Other
Supplemental State Contribution is contingent on passage and approval of House Bill No. 209.						
Architecture and Engineering Division includes \$30,000 in state special revenue each year of the biennium that is contingent on the passage and approval of Senate Bill No. 43.						
The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of \$15,656,816 in FY 2018 and \$15,698,331 in FY 2019, operating expenses of \$29,896,872 in FY 2018 and \$29,756,014 in FY 2019, equipment and intangible assets of \$370,861 in FY 2018 and \$370,861 in FY 2019, and debt service of \$626,360 in FY 2018 and \$626,360 in FY 2019. State agencies shall report to the state information technology services division which services they wish to purchase as a result of changes in the fixed costs for information technology services. The state information technology services division shall report to the legislative finance committee at its June 2017 meeting on how they implemented the agency requests. Further the state information technology services division shall report any further adjustments to state agency rates for information technology at each subsequent meeting of the legislative finance committee.						
ISP Contract Restriction Implementation is contingent on passage and approval of SB 95 containing a provision prohibiting a telecommunications or internet service provider from collecting a customer's personal information without the customer's consent.						
It is the intent of the legislature to consider the 2021 biennium budget for the banking and financial institutions division in the department of administration from zero to the full recommended budget. The banking and financial institutions division shall explain the necessity of personal services, operating expenses, and state special revenues supporting the expenditures, including the base budget for the budget submission for the 2021 biennium budget.						
DEPARTMENT OF COMMERCE (65010)						
1. Office of Tourism and Business Development (51)						
1,958,970	1,894,544	798,583	0	0	4,652,097	1,962,201
						1,891,919
						798,539
a. Legislative Audit (Restricted/Biennial)						
3,197	40,345	1,151	0	0	44,693	0
						0
b. SBIR/STTR Program (Restricted/Biennial)						
375,000	0	0	0	0	375,000	0
						0
						0
c. Montana Manufacturing Extension Service (Restricted/Biennial)						
100,000	0	0	0	0	100,000	0
						0
d. Montana Food and Agriculture Development (Restricted)						
0	105,000	0	0	0	105,000	0
						0
e. Primary Business Sector Training (Restricted/OTO)						
0	600,000	0	0	0	600,000	0
						0
						600,000

	Fiscal 2018			Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	Total
f. Indian Country Economic Development - (Restricted/OTO)	0	800,000	0	0	800,000	0	800,000
g. Montana Manufacturing Extension Center (Restricted/OTO)	0	200,000	0	0	200,000	0	200,000
h. Montana State University - Northern Advanced Biofuel Center (Restricted/OTO)	0	200,000	0	0	200,000	0	200,000
i. Brownfield Chemical Spills Grant Program (Restricted/Biennial/OTO)	0	5,000	0	0	5,000	0	5,000
j. Native Language Preservation - (Restricted/Biennial/OTO)	500,000	0	0	500,000	0	0	500,000
2. Community Development Division (60)	829,653	926,451	16,441,631	830,119	930,211	16,443,150	18,203,480
a. Legislative Audit (Restricted/Biennial)	3,131	2,582	7,019	0	0	0	0
b. Coal Board Grants (Biennial)	0	1,754,336	0	0	1,761,868	0	1,761,868
c. Coal Board HB 209	0	1,649,000	0	0	1,657,000	0	1,657,000
d. Hard Rock Mining Reserve (Restricted)	0	100,000	0	0	100,000	0	100,000
e. Quality Schools (Restricted/OTO)	0	100,000	0	0	100,000	0	100,000
3. Housing Division (74)	0	75,000	358,921	0	75,000	358,921	433,921
4. Board of Horseracing (78)	0	196,771	0	0	196,768	0	196,768
5. Director's Office (81)	0	0	500,000	0	0	500,000	500,000

	Fiscal 2018			Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	Total
Total	3,769,951	8,649,029	18,107,305	0	0	30,526,285	3,767,320
Coal Board HB 209 is contingent on the passage and approval of House Bill No. 209							18,100,610
IF SB 307 is passed and approved and neither SB 367 nor HB 645 are passed and approved with funds for quality schools facility program grants, Quality Schools is void.							0
DEPARTMENT OF LABOR AND INDUSTRY (66020)							
1. Workforce Services Division (01)							
0	11,185,700	17,367,340	0	0	0	28,553,040	0
a. HELP Act Workforce Development (Restricted)							
0	884,134	0	0	0	0	884,134	0
2. Unemployment Insurance Division (02)							
0	5,066,301	10,529,488	0	0	0	15,595,789	0
3. Commissioner's Office/Centralized Services Division (03)							
288,568	356,761	462,183	0	0	0	1,107,512	288,698
4. Employment Relations Division (04)							
1,360,379	11,706,183	912,973	0	0	0	13,979,535	1,362,447
5. Business Standards Division (05)							
0	16,991,348	383	0	0	0	16,991,731	0
6. Montana Community Services (07)							
147,345	12,388	3,688,683	0	0	0	3,848,416	148,200
7. Workers' Compensation Court (09)							
0	747,740	0	0	0	0	747,740	0
Total	1,796,292	46,950,555	32,961,050	0	0	81,707,897	1,799,345

HELP Act Workforce Development is restricted to workforce activities as passed in the Health and Economic Livelihood Partnership (HELP) Act by the 2015 legislature.

33,038,844	0	0	81,891,791
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General Fund	State Special Revenue	Fiscal 2018			Total	General Fund	State Special Revenue	Fiscal 2019			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
DEPARTMENT OF MILITARY AFFAIRS (67010)											
1. Director's Office (01)											
742,497	0	492,472	0	0	1,234,969	745,130	0	492,738	0	0	1,237,868
a. Legislative Audit (Restricted/Biennial)											
2,265	0	0	0	0	2,265	0	0	0	0	0	0
2. Challenge Program (02)											
1,118,729	0	3,316,041	0	0	4,434,770	1,121,002	0	3,322,855	0	0	4,443,857
a. Legislative Audit (Restricted/Biennial)											
2,830	0	8,491	0	0	11,321	0	0	0	0	0	0
3. National Guard Scholarship Program (03) (Biennial)											
209,409	0	0	0	0	209,409	209,409	0	0	0	0	209,409
4. Starbase Program (04)											
0	0	342,378	0	0	342,378	0	0	343,363	0	0	343,363
a. Legislative Audit (Restricted/Biennial)											
0	0	755	0	0	755	0	0	0	0	0	0
5. Army National Guard Program (12)											
1,684,619	420	16,979,526	0	0	18,664,565	1,709,281	420	17,025,816	0	0	18,735,517
a. Legislative Audit (Restricted/Biennial)											
13,208	0	27,548	0	0	40,756	0	0	0	0	0	0
6. Air National Guard Program (13)											
424,466	0	4,875,997	0	0	5,300,463	427,292	0	4,896,288	0	0	5,323,580
a. Legislative Audit (Restricted/Biennial)											
943	0	3,585	0	0	4,528	0	0	0	0	0	0
7. Disaster and Emergency Services (21)											
1,164,880	56,659	15,838,344	0	0	17,059,883	1,167,737	56,659	15,841,659	0	0	17,066,055
a. Legislative Audit (Restricted/Biennial)											
4,906	0	6,415	0	0	11,321	0	0	0	0	0	0
8. Veterans' Affairs Program (31)											
1,182,718	707,348	0	0	0	1,890,066	1,184,621	709,532	0	0	0	1,894,153

General Fund	State Special Revenue	Fiscal 2018			Total	General Fund	State Special Revenue	Fiscal 2019			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
a. Legislative Audit (Restricted/Biennial)											
3,019	0	0	0	0	3,019	0	0	0	0	0	0
b. State Special Veterans' Affairs Funding (OTO)											
0	50,000	0	0	0	50,000	0	50,000	0	0	0	50,000
c. Veterans' Outreach Services (Biennial/OTO)											
0	100,000	0	0	0	100,000	0	0	0	0	0	0
Total											
6,554,489	914,427	41,891,552	0	0	49,360,468	6,564,472	816,611	41,922,719	0	0	49,303,802
If HB 641 fails to be passed and approved, general funds of \$50,011 in FY 2018 and \$50,043 in FY 2019 from the Veterans' Affairs Program will be allocated to personal services for 1.00 FTE for a veterans service officer in the veterans affairs division.											
TOTAL SECTION A											
93,165,116	76,551,523	94,300,975	8,535,534	0	272,553,148	93,239,105	76,530,703	93,442,097	8,427,150	0	271,639,055

General Fund	State Special Revenue	Fiscal 2018			Total	General Fund	State Special Revenue	Fiscal 2019			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
B. DEPARTMENT OF HEALTH AND HUMAN SERVICES											
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (69010)											
1. Disability Employment and Transitions (01)											
5,997,464	949,009	22,642,795	0	0	29,589,268	6,002,648	949,603	22,670,467	0	0	29,622,718
2. Human and Community Services Division (02)											
333,087,934	2,579,034	291,270,947	0	0	326,937,915	33,049,762	2,575,440	291,313,435	0	0	326,938,637
3. Child and Family Services Division (03)											
42,316,476	1,897,614	30,992,388	0	0	75,206,478	42,359,893	1,897,614	31,014,594	0	0	75,273,101
a. Foster Care Stipend (Restricted)											
0	430,400	0	0	0	430,400	0	0	430,400	0	0	430,400
b. Foster care, Adoption, Guardianship Caseload (Restricted/OTO)											
5,107,630	0	2,629,552	0	0	7,737,182	5,082,921	0	3,822,510	0	0	8,905,431
4. Director's Office (04)											
2,785,092	673,983	3,434,501	0	0	6,893,576	2,790,333	675,061	3,440,968	0	0	6,906,362
a. Suicide Prevention (Restricted/Biennial)											
0	500,000	0	0	0	500,000	0	500,000	0	0	0	500,000
5. Child Support Enforcement Division (05)											
3,592,639	396,743	8,613,849	0	0	12,603,231	3,604,866	396,775	8,637,659	0	0	12,639,300
6. Business and Financial Services Division (06)											
3,869,631	507,521	5,656,794	0	0	10,033,946	3,862,177	498,686	5,613,853	0	0	9,974,716
a. Legislative Audit (Restricted/Biennial)											
167,083	13,927	211,454	0	0	392,464	0	0	0	0	0	0
7. Public Health and Safety Division (07)											
3,898,715	16,871,816	42,182,526	0	0	62,953,057	3,900,566	16,889,837	42,220,198	0	0	63,010,601
8. Quality Assurance Division (08)											
2,496,859	388,706	6,494,655	0	0	9,380,220	2,503,228	389,319	6,512,047	0	0	9,404,594
9. Technology Services Division (09)											
12,481,891	1,492,596	18,450,884	0	0	32,425,371	12,461,573	1,490,221	17,574,829	0	0	31,526,623

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
10. Developmental Services Division (10)						
76,614,646	6,633,290	204,938,536	0	0	288,186,472	79,662,794
a. Youth Crisis Division (OTO)						
600,000	0	0	0	0	600,000	0
b. Montana Developmental Center (Restricted)						
12,652,089	0	0	0	0	12,652,089	0
11. Health Resources Division (11)						
159,437,397	72,073,696	592,961,755	0	0	824,472,848	167,450,582
a. Medicaid Caseload Contingency (Restricted)						
5,300,000	0	0	0	0	5,300,000	0
12. Medicaid and Health Services Management (12)						
2,331,977	148,899	16,334,318	0	0	18,815,194	2,332,538
13. Management and Fair Hearings Division (16)						
857,409	60,028	1,258,619	0	0	2,176,056	859,492
14. Senior and Long-Term Care Division (22)						
74,698,602	32,183,387	195,288,199	0	0	302,170,188	76,564,947
15. Addictive and Mental Disorders Division (33)						
75,949,820	19,108,208	52,753,557	0	0	147,811,585	76,657,701
Total						
524,243,354	156,478,457	1,496,545,729	0	0	2,177,267,540	535,732,343

TOTAL SECTION B						
524,243,354	156,478,457	1,496,545,729	0	0	2,177,267,540	535,732,343
The Disability Employment and Transitions Division is appropriated \$775,000 of state special revenue from the Montana Telecommunications Access Program (MTAP) during each year of the 2019 biennium to cover a contingent FCC mandate, which would require states to provide both video and internet protocol relay services for people with severe hearing, mobility or speech impairments.						

The Montana Developmental Center restricted line item appropriation is restricted to expenditures for the Montana Developmental Center or according to the requirements in HB 639.

General Fund	Fiscal 2018				Fiscal 2019			
	State Special Revenue	General Fund	Total	Proprietary Other	State Special Revenue	Federal Special Revenue	Proprietary Other	Total
Senior and Long Term Care - County Nursing Home Intergovernmental Transfer (IGT) may be used only to make one-time payments to nursing homes based on the number of medicaid services provided. State special revenue in County Nursing Home IGT may be expended only after the office of budget and program planning has certified that the department has collected the amount that is necessary to make one-time payments to nursing homes based on the number of medicaid services provided and to fund the base budget in the nursing facility program and the community services program at the level of \$564,785 from the counties participating in the intergovernmental transfer program for the nursing facilities.								
Medicaid Caseload Contingency is contingent upon the passage of HB 639 containing restrictions related to Medicaid expenditures and caseloads.								
The department is appropriated an additional \$450,000 of state special revenue authority each year of the biennium contingent upon the recovery of an amount greater than \$450,000 each year as a result of audits identifying fraud, waste, and abuse and documented recovery of those funds.								

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total		
C. NATURAL RESOURCES AND TRANSPORTATION										
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (52010)										
1. Fisheries Division (03)										
0	8,664,525	10,664,197	0	0	19,328,722	0	8,696,351	10,711,432	0	19,407,783
a. Data Management (OTO)										
0	30,000	0	0	0	30,000	0	30,000	0	0	30,000
b. Aquatic Invasive Species Response (Restricted/OTO)										
0	2,965,783	2,965,783	0	0	5,931,566	0	2,782,758	2,782,758	0	5,565,516
c. Drought Management Planning (Restricted/OTO)										
0	150,000	0	0	0	150,000	0	150,000	0	0	150,000
2. Law Enforcement Division (04)										
0	9,264,140	2,420,543	0	0	11,684,683	0	9,298,188	2,428,157	0	11,726,345
3. Wildlife Division (05)										
0	14,473,852	8,623,773	0	0	23,097,625	0	14,495,778	8,646,841	0	23,142,619
a. Wolf Management (OTO)										
0	471,218	0	0	0	471,218	0	471,575	0	0	471,575
b. Bison Containment (OTO)										
0	54,130	0	0	0	54,130	0	54,047	0	0	54,047
c. Grizzly Bear Management (OTO)										
0	87,003	261,010	0	0	348,013	0	86,831	260,494	0	347,325
4. Parks Division (06)										
0	8,017,183	171,219	0	0	8,188,402	0	8,039,783	171,983	0	8,211,766
a. Snowmobile Equipment (Biennial)										
0	210,000	0	0	0	210,000	0	210,000	0	0	210,000
5. Communication and Education Division (08)										
0	2,990,116	956,883	0	0	3,946,999	0	2,999,368	958,832	0	3,958,200
6. Administration Division(09)										
0	13,215,267	319,967	0	0	13,535,234	0	13,254,721	317,166	0	13,571,887

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
a. Legislative Audit (Restricted/Biennial)	0	105,663	0	0	0	0
7. Department Management(12)	0	7,793,636	243,026	0	7,814,998	243,427
Total	0	68,492,516	26,626,401	0	95,118,917	26,521,090

If federal funds are received by the department for Aquatic Invasive Species Response in excess of the federal special revenue in the Aquatic Invasive Species Response appropriation, the state special revenue appropriation for Aquatic Invasive Species Response must be reduced and federal special revenue increased by the amount of federal funds received.

It is the intent of the legislature to consider the 2021 biennium budget for the Parks and Communication and Education Divisions from zero to the full recommended budget. The department shall explain the necessity of each reporting level (RL4) of the budget, including the base budget for the budget submission for the 2021 biennium budget. As a part of this process, the department shall submit a separate request each functional and geographic unit of the Parks Division, including each state park.

It is the intent of the legislature that the federal funds (Pittman-Robertson/Dingell-Johnson) in the Law Enforcement Division are used for non-law enforcement activities by wardens as defined by 50 CFR 80.50 and 50 CFR 80.51. These activities include, but are not limited to: fish and wildlife surveys/inventories, research and relations with landowners and other individuals regarding the status of fish and wildlife, research into fish and wildlife problems, and education on hunting and fishing.

The department is appropriated \$1 million dollars from the state parks miscellaneous state special revenue account each year of the biennium for maintenance and repair work on Virginia and Nevada City. The Montana heritage commission shall direct the use of this appropriation.

The Drought Management Planning appropriation must be used statewide without concentrating on a single region or drainage.

DEPARTMENT OF ENVIRONMENTAL QUALITY (53010)

1. Central Management Program (10)	255,326	1,198,990	374,154	0	0	1,828,470	254,727	1,198,990	374,154	0	0	1,827,871
a. Hard Rock Reclamation/MFSA Projects (Restricted/Biennial)	0	750,000	0	0	0	750,000	0	750,000	0	0	0	750,000
2. Water Quality Division (20)	2,511,947	6,280,248	7,588,707	0	0	16,380,902	2,518,642	6,300,641	7,604,859	0	0	16,424,142

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>
3. Enforcement Division (30)								
523,098	481,169	372,754	0	1,377,021	524,685	482,551	373,829	1,381,065
4. Waste Management and Remediation Division (40)								
332,942	9,453,874	10,484,224	0	20,271,040	332,942	9,441,266	10,515,702	20,289,910
a. Natural Resource Damage Program								
0	1,000,000	0	0	1,000,000	0	1,000,000	0	1,000,000
5. Air Energy & Mining Division (50)								
1,588,810	14,179,411	4,073,153	0	19,841,374	1,589,044	14,205,134	4,084,869	19,879,047
a. Hard Rock Reclamation/MFSA Projects (Restricted/Biennial)								
0	1,568,679	0	0	1,568,679	0	2,300,000	0	2,300,000
b. Mitigated Retirement of Coal-Fired Generating Units (Restricted/OTO)								
90,000	0	0	0	90,000	0	0	0	0
6. Petroleum Tank Release Compensation Board (90)								
0	601,008	0	0	601,008	0	601,818	0	601,818

Total

5,302,123	35,513,379	22,892,992	0	63,708,494	5,220,040	36,280,400	22,953,413	0	64,453,853
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The department is appropriated up to \$1,000,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2019 biennium for the purpose of paying contract expenses related to the recovery of funds.

The Water Quality Division is authorized to decrease federal special revenue and increase state special revenue in the drinking water and/or water pollution control revolving loan programs by a like amount within the administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.

If the carpenter/snow creek site is approved for federal superfund funding by the environmental protection agency, the department is appropriated \$2.2 million in state special revenue from the CERCLA Bond Proceeds Account.

Mitigated Retirement of Coal-Fired Generating Units is contingent on passage and approval of Senate Bill No. 338.

If a company, the governor, and the attorney general enter into a transition agreement as specified in Senate Bill No. 338, the Mitigated Retirement of Coal-Fired Generating Units appropriation is void.

General Fund	Fiscal 2018			Total	General Fund	Fiscal 2019						
	State Special Revenue	Federal Special Revenue	Proprietary			State Special Revenue	Federal Special Revenue	Proprietary	Other	Total		
If the department receives local, private, or federal funds for the Mitigated Retirement of Coal-Fired Generating Units, general fund appropriations must be reduced by the amount of the funds received. In the case of local or private funds, the department may increase state special revenue authority by the amount received.												
During the 2019 biennium, the department is appropriated \$2.2 million of state special authority. This authority may be used only if revenue collected by the department for a single permit exceeds \$250,000 or revenue collected by the department for permits issued pursuant to the same permitting authority exceeds \$250,000 within a single 6-month period. The amount of authority to be used is the same as the amount collected.												
DEPARTMENT OF TRANSPORTATION (54010)												
1. General Operations Program (01) (Biennial)												
0	30,294,830	1,525,468	0	0	31,820,298	0	30,337,709	1,528,454	0	0	31,866,163	
a. Legislative Audit (Restricted/Biennial)												
0	184,911	0	0	0	184,911	0	0	0	0	0	0	
2. Construction Program (02) (Biennial)												
0	52,953,429	263,402,057	0	0	316,355,486	0	60,635,584	314,333,176	0	0	374,968,760	
a. Highway Construction Contractor Payments (Restricted)												
0	18,210,000	121,880,000	0	0	140,090,000	0	10,630,000	71,160,000	0	0	81,790,000	
3. Maintenance Program (03) (Biennial)												
0	125,189,508	8,091,722	0	0	133,281,230	0	126,102,179	8,138,568	0	0	134,240,747	
a. State-Funded Construction (Restricted)												
0	1,500,000	0	0	0	1,500,000	0	1,500,000	0	0	0	1,500,000	
4. Motor Carrier Services Division (22) (Biennial)												
0	9,113,631	2,859,410	0	0	11,973,041	0	9,139,808	2,867,757	0	0	12,007,565	
5. Aeronautics Program (40) (Biennial)												
0	1,851,815	1,193,879	0	0	3,045,694	0	1,818,302	194,902	0	0	2,013,204	
6. Rail, Transit, and Planning Division (50) (Biennial)												
0	10,282,489	25,580,524	0	0	35,863,013	0	8,299,684	25,597,824	0	0	33,897,508	
Total	0	249,580,613	424,533,060	0	0	674,113,673	0	248,463,266	423,820,681	0	0	672,283,947

If the department receives local, private, or federal funds for the Mitigated Retirement of Coal-Fired Generating Units, general fund appropriations must be reduced by the amount of the funds received. In the case of local or private funds, the department may increase state special revenue authority by the amount received.

During the 2019 biennium, the department is appropriated \$2.2 million of state special authority. This authority may be used only if revenue collected by the department for a single permit exceeds \$250,000 or revenue collected by the department for permits issued pursuant to the same permitting authority exceeds \$250,000 within a single 6-month period. The amount of authority to be used is the same as the amount collected.

DEPARTMENT OF TRANSPORTATION (54010)

- [illegible]

Total

0	249,580,613	424,533,060	0	0	674,113,673	0	248,463,266	423,820,681	0	0	672,283,947
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	<u>Fiscal 2018</u>			<u>Fiscal 2019</u>		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
Total						
2,564,639	7,449,523	1,821,945	0	0	11,836,107	2,569,459
1,836,356	0	0	0	0	0	0
11,731,785						
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (57060)						
1. Director's Office (21)						
3,590,785	2,024,321	299,772	0	0	5,914,878	3,614,428
2,036,152						
5,952,101						
a. Legislative Audit (Restricted/Biennial)						
132,079	0	0	0	0	132,079	0
0						
0						
2. Oil and Gas Conservation Division (22)						
0	2,016,796	105,676	0	0	2,122,472	0
105,676						
2,127,031						
3. Conservation and Resource Development Division (23)						
1,616,402	8,353,304	274,558	0	0	10,244,264	1,619,903
274,558						
10,284,826						
a. CARDD Conservation Districts Administration (Restricted/OTO)						
115,000	0	0	0	0	115,000	0
0						
0						
115,000						
b. Aquatic Invasive Species Response (Restricted/OTO)						
0	177,821	177,821	0	0	355,642	0
177,821						
355,642						
c. Montana Rural Water (OTO)						
0	180,000	0	0	0	180,000	0
180,000						
180,000						
d. Speculator Mine Centenary (Restricted/OTO)						
0	100,000	0	0	0	100,000	0
100,000						
0						
0						
4. Water Resources Division (24)						
9,315,941	5,898,219	267,250	0	0	15,481,410	9,361,962
267,250						
15,522,278						
a. Water Resources Operations						
0	371,259	0	0	0	371,259	0
371,259						
371,259						
b. WRD Additional Personal Services Water Right Filing Fees						
0	200,000	0	0	0	200,000	0
200,000						
200,000						
5. Forestry and Trust Lands Divisions (35)						
12,610,938	16,888,618	1,362,801	0	0	30,862,357	12,670,541
1,364,449						
30,978,281						

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
a. Forestry-DNRC USFS Liaison (OTO)	92,000	0	0	92,000	0	0
b. Fire Tenders (Restricted/Biennial/OTO)	0	250,000	0	0	250,000	0
c. Restore State Special Revenue (OTO)	0	661,264	0	0	661,264	0

Total 27,473,145 37,121,602 2,487,878 0 0 67,082,625 27,473,834 37,124,862 2,490,986 0 0 67,089,682

If federal funds are received by the department for Aquatic Invasive Species Response in excess of the federal special revenue in the Aquatic Invasive Species Response appropriation, the state special revenue appropriation for Aquatic Invasive Species Response must be reduced and federal special revenue increased by the amount of federal funds received.

The department is authorized to decrease federal special revenue in the pollution control and/or drinking water revolving fund loan programs and increase state special revenue by a like amount within administration accounts when the amount of federal EPA CAP grant funds allocated for administration of the grant have been expended or federal funds and bond proceeds will be used for other program purposes as authorized in law providing for the distribution of funds.

The department is appropriated up to \$600,000 for the 2019 biennium from the loan loss reserve account of the private loan program established in 85-1-603 for the purchase of prior liens on property held as loan security as provided in 85-1-615.

During the 2019 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.

During the 2019 biennium, up to \$100,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.

During the 2019 biennium, up to \$500,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.

During the 2019 biennium, up to \$1 million of funds currently in or to be deposited in the contract timber harvest account is appropriated to the department for contract harvesting, a tool to improve forest health and generate revenue for trust beneficiaries.

The Water Resources Division Additional Personal Services Water Right Filing Fees appropriation is conditional upon additional personal services being needed for water rights processing.

General Fund	Fiscal 2018			Total	General Fund	Fiscal 2019			Total		
	State Special Revenue	Federal Special Revenue	Proprietary Other			State Special Revenue	Federal Special Revenue	Proprietary Other			
DEPARTMENT OF AGRICULTURE (62010)											
1. Central Management Division (15)											
110,939	1,167,023	74,345	76,717	0	1,429,024	110,939	1,165,788	78,001	76,593	0	1,431,321
a. Legislative Audit (Restricted/Biennial)											
46,794	0	0	0	0	46,794	0	0	0	0	0	0
2. Agricultural Sciences Division (30)											
230,500	7,576,151	1,018,871	0	0	8,825,522	230,744	7,593,191	1,022,815	0	0	8,846,750
3. Agricultural Development Division (50)											
526,629	6,344,856	99,484	396,282	0	7,367,251	527,186	6,377,265	99,525	396,626	0	7,400,602
a. Montana Wheat and Barley Committee (Biennial/OTO)											
0	2,000,000	0	0	0	2,000,000	0	0	0	0	0	0
Total											
914,862	17,088,030	1,192,700	472,999	0	19,668,591	868,869	15,136,244	1,200,341	473,219	0	17,678,673
TOTAL SECTION C											
36,254,769	415,245,663	479,554,976	472,999	0	931,528,407	36,132,202	412,715,140	478,822,867	473,219	0	928,143,428

General Fund	State Special Revenue	Fiscal 2018			Total	General Fund	State Special Revenue	Fiscal 2019			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
D. CORRECTIONS AND PUBLIC SAFETY											
JUDICIARY (21100)											
1. Supreme Court Operations (01)											
16,697,082	415,458	100,790	0	0	17,213,330	16,859,076	415,458	100,866	0	0	17,375,400
a. Legislative Audit (Restricted/Biennial)											
49,058	0	0	0	0	49,058	0	0	0	0	0	0
b. Judicial Standards (Restricted/Biennial)											
18,000	0	0	0	0	18,000	0	0	0	0	0	0
c. Information Technology Staff (Restricted/OTO)											
120,437	0	0	0	0	120,437	120,586	0	0	0	0	120,586
d. Child Abuse Court Diversion Project (OTO)											
44,481	0	0	0	0	44,481	44,507	0	0	0	0	44,507
e. Sentencing Commission and Senate Bill 59 (Biennial/OTO)											
780,000	0	0	0	0	780,000	780,000	0	0	0	0	780,000
2. Law Library (03)											
863,245	0	0	0	0	863,245	876,290	0	0	0	0	876,290
3. District Court Operations (04)											
0	86,737	0	0	0	86,737	0	86,737	0	0	0	86,737
a. CASA and Guardian Ad Litem (Biennial)											
830,000	100,000	0	0	0	930,000	830,000	100,000	0	0	0	930,000
b. District Court Operations (Biennial)											
27,544,370	0	0	0	0	27,544,370	28,711,113	0	0	0	0	28,711,113
4. Water Courts Supervision (05)											
966,052	1,364,805	0	0	0	2,330,857	977,124	1,366,725	0	0	0	2,343,849
5. Clerk of Court (06)											
563,331	0	0	0	0	563,331	566,146	0	0	0	0	566,146

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total
Total	48,476,056	1,967,000	100,790	0	50,543,846	49,764,842	1,968,920	100,866	0	51,834,628
If state special revenue fees collected for CASA by court fees is greater than \$100,000 for each year of the 2019 biennium, the state special revenue appropriation for the department is increased by the additional fee revenue and the general fund appropriation is reduced by an equal amount.										
Funding for the sentencing commission and Senate Bill 59 in the amount of \$780,000 general fund each year of the biennium is contingent upon the passage and approval of Senate Bill No. 59 and House Bill No. 650.										
CRIME CONTROL DIVISION (41070)										
1. Justice System Support Service (01)										
2,102,571	122,176	12,439,308	0	0	14,664,055	2,136,591	122,176	12,440,938	0	14,699,705
a. Sentencing Commission and Senate Bill 65 (Biennial/OTO)										
200,000	0	0	0	0	200,000	200,000	0	0	0	200,000
Total	2,302,571	122,176	12,439,308	0	14,864,055	2,336,591	122,176	12,440,938	0	14,899,705
All pass-through grant authority is biennial.										
All remaining pass-through grant appropriations, up to \$100,000 in general fund money, \$180,000 in state special revenue, and \$7 million in federal funds, including reversions, for the 2017 biennium, are authorized to continue and are appropriated in fiscal year 2018 and fiscal year 2019.										
Funding for the Sentencing Commission and Senate Bill No. 65 in the amount of \$200,000 general fund each year of the biennium is contingent upon the passage and approval of Senate Bill No. 65 and House Bill No. 650.										
DEPARTMENT OF JUSTICE (41100)										
1. Legal Services Division (01)										
6,701,693	1,267,344	732,418	0	0	8,701,455	7,022,830	1,271,272	733,312	0	9,027,414
2. Montana Highway Patrol (03)										
0	36,943,191	0	0	0	36,943,191	0	37,106,559	0	0	37,106,559
a. Dedicated Criminal Interdiction Team										
0	1,088,351	0	0	0	1,088,351	0	638,046	0	0	638,046
3. Justice Information Technology Services Division (04)										
4,460,614	263,297	2,635	14,768	0	4,741,314	4,532,522	263,297	2,635	14,768	4,813,222

	Fiscal 2018					Fiscal 2019						
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
4. Division of Criminal Investigation (05)												
7,421,322	4,548,246	606,797	0	0	12,576,365	7,498,899	4,429,903	603,521	0	0	0	12,532,323
5. Gambling Control Division (07)												
0	3,157,659	0	1,233,835	0	4,391,494	0	3,169,024	0	1,238,372	0	0	4,407,396
6. Forensic Science Division (08)												
4,839,554	536,371	0	0	0	5,375,925	3,911,933	1,436,371	0	0	0	0	5,348,304
a. Secure funding for morgue facility (Biennial/OTO)												
800,000	0	0	0	0	800,000	0	0	0	0	0	0	0
7. Motor Vehicle Division (09)												
8,247,490	15,202,770	0	591,259	0	24,041,519	9,191,948	14,436,881	0	591,259	0	0	24,220,088
a. 24/7 Testing (Biennial)												
500,000	0	0	0	0	500,000	500,000	0	0	0	0	0	500,000
b. MVD County IT Efficiencies (Biennial/OTO)												
0	500,000	0	0	0	500,000	0	500,000	0	0	0	0	500,000
8. Central Services Division (10)												
1,111,009	554,563	4,436	31,232	0	1,701,240	1,164,576	515,370	4,436	31,316	0	0	1,715,698
a. Legislative Audit (Restricted/Biennial)												
83,021	0	0	0	0	83,021	0	0	0	0	0	0	0
9. Public Safety Officers Standards and Training (POST) (19)												
419,449	0	0	0	0	419,449	426,442	0	0	0	0	0	426,442
Total												
34,584,152	64,061,792	1,346,286	1,871,094	0	101,863,324	34,249,150	63,766,723	1,343,904	1,875,715	0	0	101,235,492
Montana Highway Patrol includes funding to hold inmates in county jails. It is the intent of the legislature that the department of justice pay no more than \$69 per day to hold an inmate in any county jail.												

Montana Highway Patrol includes funding to hold inmates in county jails. It is the intent of the legislature that the department of justice pay no more than \$69 per day to hold an inmate in any county jail.

PUBLIC SERVICE COMMISSION (42010)

1. Public Service Regulation Program (01)											
0	4,165,359	173,336	0	0	4,338,695	0	3,725,406	173,336	0	0	3,898,742

	<u>Fiscal 2018</u>				<u>Fiscal 2019</u>			
	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>
DEPARTMENT OF CORRECTIONS (64010)								
1. Director's Office (01)								
11,931,696	458,431	0	107,229	0	12,497,356	458,431	0	12,526,624
a. Legislative Audit (Restricted/Biennial)								
116,984	0	0	0	0	116,984	0	0	0
b. Director's Office Contingent Funding								
1,000,000	0	0	0	0	1,000,000	0	0	1,000,000
c. Sentencing Commission Implementation Accountability (OTO)								
100,000	0	0	0	0	100,000	0	0	100,000
2. Probation and Parole Division (02) (Biennial)								
67,924,073	814,167	0	0	0	68,738,240	814,167	0	68,795,761
a. Reduce County Jail Holds - Community Placements (Restricted)								
2,986,064	0	0	0	0	2,987,866	0	0	2,987,866
b. Presentence Investigations (Restricted/OTO)								
360,000	0	0	0	0	360,000	0	0	360,000
3. Secure Custody Facilities (03) (Biennial)								
79,518,817	104,462	0	0	0	79,623,279	104,462	0	79,774,087
4. Montana Correctional Enterprises (04)								
937,018	2,995,785	0	0	0	3,932,803	2,995,842	0	3,934,639
5. Youth Services Division (05)								
13,690,322	599,062	0	0	0	14,289,384	599,062	0	14,329,079
6. Clinical Services Division (06)								
22,273,406	208,900	0	0	0	22,482,306	208,900	0	22,620,690
7. Board of Pardons and Parole (07)								
931,184	0	0	0	0	931,184	0	0	931,804
a. Accreditation Fee (OTO)								
0	0	0	0	0	16,500	0	0	16,500
b. Revise Board of Pardons and Parole (OTO)								
29,878	0	0	0	0	29,878	0	0	59,755

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
Total						
201,799,442	5,180,807	0	107,229	0	107,229	0
All appropriations for Probation and Parole Division and the Secure Custody Facility are biennial.						
Director's Office Contingent Funding may be expended in fiscal year 2018 only after the budget director certifies that the department has implemented the use of the risk and needs assessments for all individuals under department supervision and that county jail holds are at a level of 250 or less as of January 1, 2018. Director's Office Contingent Funding may be expended in fiscal year 2019 only after the budget director certifies that the department has implemented the Montana incentive and intervention grid and the department has provided data to the budget director demonstrating the department has used the least restrictive and most appropriate sanctions to manage the offender population and that county jail holds are maintained at a level of 250 or less as of January 1, 2019.						
Reduce County Jail Holds - Community Placements is restricted to placing offenders in community facilities and programs including but not limited to: sanction/hold beds, transitional living program slots, enhanced supervision program slots, relapse intervention beds, chemical dependency treatment beds and other alternatives. The department shall report on the placement of inmates, including county jail holds and community corrections placements that would have otherwise been county jail holds, to the legislative finance committee no less than twice during the 2019 biennium and upon request.						
It is the intent of the legislature that Presentence Investigations focus priority to reduce the backlog of presentence investigations and then maintain the backlog level within statutory time frames.						
Secure Custody Facilities includes funding to house inmates in county jails. It is the intent of the legislature that the department of corrections pay no more than \$69 per day to house inmates in county jails. It is further intended by the legislature that the department house no more than 250 inmates in county jails by January 1, 2018, unless the budget director and the director of the department of corrections jointly determine a need to house more than 250 inmates in county jails due to safety concerns. Further, it is the intent of the legislature that the department use these funds to house inmates in state-owned facilities to the maximum extent possible before housing them in contracted secure custody beds.						
TOTAL SECTION D						
319,956,281	75,519,776	14,059,720	1,978,323	0	411,514,100	320,672,202
					74,764,089	14,059,044
						1,982,944
						0
						411,478,279

General Fund	State Special Revenue	Fiscal 2018			Total	Fiscal 2019			State Special Revenue	Federal Special Revenue	Proprietary		Total
		Revenue	Special Revenue	Other		Revenue	Special Revenue	Other					
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)													
1. State Level Activities (06)													
10,304,047	206,925	18,616,110	0	0	29,127,082	10,432,729	207,520	18,647,507	0	0	0	29,287,756	
a. Audiological Services (Restricted/OTO)													
50,000	0	0	0	0	50,000	50,000	0	0	0	0	0	50,000	
b. National Board Certified Teachers (Restricted/OTO)													
0	0	0	0	0	0	30,000	0	0	0	0	0	30,000	
c. Montana Digital Academy (Restricted/OTO)													
832,500	0	0	0	0	832,500	832,500	0	0	0	0	0	832,500	
2. Local Education Activities (09)													
0	750,000	151,235,391	0	0	151,985,391	0	750,000	152,235,391	0	0	0	152,985,391	
a. Advancing Agricultural Education (Restricted/Biennial)													
151,941	0	0	0	0	151,941	151,944	0	0	0	0	0	151,944	
b. In-State Treatment (Restricted/Biennial)													
787,800	0	0	0	0	787,800	787,800	0	0	0	0	0	787,800	
c. Secondary Vo-ed (Restricted/Biennial)													
2,000,000	0	0	0	0	2,000,000	2,000,000	0	0	0	0	0	2,000,000	
d. Adult Basic Education (Restricted/Biennial)													
525,000	0	0	0	0	525,000	525,000	0	0	0	0	0	525,000	
e. Gifted and Talented (Restricted/Biennial)													
250,000	0	0	0	0	250,000	250,000	0	0	0	0	0	250,000	
f. K-12 BASE Aid (Restricted/Biennial)													
699,089,760	0	0	0	0	699,089,760	731,529,417	0	0	0	0	0	731,529,417	
g. At-Risk Student Payment (Restricted/Biennial)													
5,390,549	0	0	0	0	5,390,549	5,491,352	0	0	0	0	0	5,491,352	
h. Reimbursement Block Grants (Restricted/Biennial)													
14,356,539	0	0	0	0	14,356,539	14,356,539	0	0	0	0	0	14,356,539	

E. EDUCATION

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
i. State Tuition Payments (Restricted/Biennial)								
402,675		0	0	402,675	402,675	0	0	402,675
j. Special Education (Restricted/Biennial)								
43,509,471		0	0	43,509,471	43,509,471	0	0	43,509,471
k. School Facility Reimbursement (Restricted)								
0	8,586,000	0	0	8,586,000	0	8,586,000	0	8,586,000
l. School Food (Restricted/Biennial)								
663,861	0	0	0	663,861	663,861	0	0	663,861
m. Transportation (Restricted/Biennial)								
11,766,826	0	0	0	11,766,826	11,766,826	0	0	11,766,826
n. Natural Resource Development K-12 School Facilities Payment								
0	0	0	0	0	5,800,000	0	0	5,800,000
o. Coal-Fired Generating Unit Closure Mitigation Block Grant (Restricted)								
1,693,2740	0	0	01,693,274	1,693,274	0	0	0	01,693,274

All revenue up to \$1.8 million in the state traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121, is appropriated as provided in Title 20, chapter 7, part 5.

All appropriations for federal special revenue appropriations in State Level Activities and in Local Education Activities and all general fund appropriations in Local Education Activities are biennial.

All general and state funds appropriated to local school districts through Local Education Activities for FY 2018 and FY 2019 are restricted for the intended purpose. This includes funding for the follow: K-12 BASE Aid, At-Risk Student Payment, Special Education, Gifted and Talented, In-State Treatment, Secondary Vo-ed, Adult Basic Education, Transportation, School Facility Reimbursement, School Food, Reimbursement Block Grants, State Tuition Payments, Advancing Agricultural Education.

The office of public instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing educational costs of children with significant behavioral or physical needs.

The legislature intends that the funding for Secondary Vo-ed be used, in part, for student participation in workforce development activities, including but not limited to attainment of industry-recognized professional certifications and work-based learning programs, such as internships and registered apprenticeships.

Fiscal 2018			Fiscal 2019			
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	Total
The office of public instruction may distribute the one-time-only general fund appropriation for the Montana Digital Academy for fiscal year 2019 only if the digital academy provides a report to the legislative finance committee not later than May 31, 2018, that includes at a minimum information on enrollment, course offerings, completion rates, schools served, implications of MCA 20-7-1202, and detailed financial statements for fiscal year 2014 through fiscal year 2017.						
BOARD OF PUBLIC EDUCATION (51010)						
1. Administration (01)						
142,616	188,525	0	0	0	331,141	331,087
a. Legislative Audit (Restricted/Biennial)						
15,095	0	0	0	0	15,095	0
b. Legal Expenses (Restricted/OTO)						
0	30,000	0	0	0	30,000	30,000
Total						
157,711	218,525	0	0	0	376,236	361,087
SCHOOL FOR THE DEAF AND BLIND (51130)						
1. Administration Program (01)						
525,438	2,940	0	0	0	528,378	521,372
a. Legislative Audit (Restricted/Biennial)						
24,529	0	0	0	0	24,529	0
2. General Services Program (02)						
566,634	0	0	0	0	566,634	560,503
3. Student Services Program (03)						
1,782,868	0	23,000	0	0	1,805,868	1,811,131
a. Student Travel (Restricted/OTO)						
0	30,000	0	0	0	30,000	30,000
4. Education Program (04)						
4,037,213	342,122	47,435	0	0	4,426,770	4,431,127
a. Extracurricular Compensation (Restricted/OTO)						
0	26,938	0	0	0	26,938	26,938

	<u>Fiscal 2018</u>			<u>Fiscal 2019</u>			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	Total
Total	6,936,682	402,000	70,435	0	0	7,409,117	7,381,071
MONTANA ARTS COUNCIL (51140)							
1. Promotion of the Arts (01)							
519,343	233,981	707,590	0	0	0	1,460,914	1,461,023
a. Legislative Audit (Restricted/Biennial)							
22,642	0	0	0	0	0	22,642	0
Total	541,985	233,981	707,590	0	0	1,483,556	1,461,023
All HB 2 federal funding appropriations for the Arts Council are biennial appropriations.							
MONTANA STATE LIBRARY COMMISSION (51150)							
1. Statewide Library Resources (01)							
2,871,271	1,733,753	360,229	0	0	0	4,965,253	5,008,731
a. Legislative Audit (Restricted/Biennial)							
22,642	0	0	0	0	0	22,642	0
b. Library Services and Technology Act Grants (Biennial)							
0	0	850,000	0	0	0	850,000	850,000
Total	2,893,913	1,733,753	1,210,229	0	0	5,837,895	5,858,731
MONTANA HISTORICAL SOCIETY (5117)							
1. Administration Program (01)							
1,009,132	51,136	76,332	253,175	0	0	1,389,775	1,392,005
a. Legislative Audit (Restricted/Biennial)							
41,511	0	0	0	0	0	41,511	0

	Fiscal 2018				Fiscal 2019			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other
2. Research Center (02)								
1,217,419		114,055	0	34,753	0	1,366,227	1,219,572	114,055
3. Museum Program (03)								
583,547		398,612	0	3,009	0	985,168	585,021	400,825
4. Publications Program (04)								
154,817		0	0	323,454	0	478,271	155,513	0
5. Education Program (05)								
287,490		108,479	0	25,160	0	421,129	287,756	108,626
6. Historic Preservation Program (06)								
23,652		0	763,156	45,063	0	831,871	26,373	0
Total								
3,317,568	672,282	839,488	684,614	0	5,513,952	3,285,630	837,874	684,722
MONTANA UNIVERSITY SYSTEM, INCLUDING OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION AND EDUCATIONAL UNITS AND AGENCIES (5102)								
1. OCHE -- Administration Program (01)								
3,077,915	0	0	530,394	0	3,608,309	3,091,444	0	530,729
a. Legislative Audit (Restricted/Biennial)								
45,284	0	0	0	0	45,284	0	0	0
2. OCHE -- Student Assistance Program (02)								
9,487,686	703,679	0	0	0	10,191,365	9,493,867	863,440	0
3. OCHE -- Improving Teacher Quality (03)								
0	0	517,390	0	0	517,390	0	517,390	0
4. OCHE -- Community College Assistance (04)								
12,805,073	0	0	0	0	12,805,073	12,885,883	0	0
a. Legislative Audit (Restricted/Biennial)								
82,973	0	0	0	0	82,973	0	0	0

	Fiscal 2018				Fiscal 2019					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total
5. OCHE -- Educational Outreach and Diversity (06)										
128,641		0	8,867,653	0	8,996,294	129,424	0	8,870,417	0	8,999,841
6. OCHE -- Workforce Development Program (08)										
90,067		0	5,472,376	0	5,562,443	90,067	0	5,472,720	0	5,562,787
7. OCHE -- Appropriation Distribution (09)										
169,800,995		19,603,424	0	0	189,404,419	169,800,995	19,612,885	0	0	189,413,880
a. Legislative Audit (Restricted/Biennial)										
558,506		0	0	0	558,506	0	0	0	0	0
b. Family Practice Rural Residency										
0		400,000	0	0	400,000	400,000	0	0	0	400,000
8. OCHE -- Research and Development Agencies (10)										
27,114,263		914,968	0	0	28,029,231	27,168,524	914,968	0	0	28,083,492
a. MEMG Data Preservation Program (OTO)										
0		300,000	0	0	300,000	0	300,000	0	0	300,000
b. AES Seed Lab MSU-Bozeman (Biennial/OTO)										
100,000		0	0	0	100,000	100,000	0	0	0	100,000
c. AES Wool Lab MSU-Bozeman (Restricted/Biennial/OTO)										
55,000		0	0	0	55,000	55,000	0	0	0	55,000
d. Fire School Training Services										
0		100,000	0	0	100,000	0	100,000	0	0	100,000
9. Tribal College Assistance Program (11)										
842,085		0	0	0	842,085	842,085	0	0	0	842,085
10. OCHE -- Guaranteed Student Loan (12)										
0		0	54,283,554	0	54,283,554	0	0	54,286,195	0	54,286,195
a. Legislative Audit (Restricted/Biennial)										
0		0	16,982	0	16,982	0	0	0	0	0
11. OCHE -- Board of Regents (13)										
67,688		0	0	0	67,688	67,688	0	0	0	67,688

	Fiscal 2018			Fiscal 2019		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue

Total						
224,256,176	22,022,071	69,157,955	530,394	0	315,966,596	224,124,977
					21,791,293	69,146,722
					530,729	0
						315,593,721

Items designated as OCHE Administration (01), Student Assistance (02), Improving Teacher Quality (03), Educational Outreach and Diversity (06), Workforce Development (08), Appropriation Distribution (09), Guaranteed Student Loan (12), and the Board of Regents (13) are designated as biennial appropriations.

General fund money, state and federal special revenue and proprietary fund revenue appropriated to the board of regents are included in all Montana university system programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in HB 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2), MCA. The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), MCA, according to board policy.

The Montana University system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division Banner access to the entire university system's information system, except for information pertaining to individual students and individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S. C. 1232g.

The Montana university system shall provide the electronic data required for entering human resource data for the current unrestricted operating funds into the Internet Budgeting and Reporting System (IBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.

The average budgeted amount for each full-time equivalent student at the community colleges, includes \$3,278 for each year of the 2019 biennium. The general fund appropriation for OCHE - Community College Assistance provides 48.20% in FY 2018 and 48.20% in FY 2019 of the budget amount for each full-time equivalent student each year of the 2019 biennium. The remaining 51.80% of the budget amount for each full-time equivalent student must be paid from funds other than those appropriated for OCHE - Community College Assistance.

The commissioner may adjust the funding distribution between community colleges based on actual enrollment.

The general fund appropriation for OCHE -- Community College Assistance is calculated to fund education in the community colleges for an estimated resident FTE students of 1,937 in FY 2018 and 1,958 in FY 2019. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated numbers for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

The funding for community colleges may not exceed \$9,518 state support per resident full-time equivalent student.

Funding is to be transferred to the state energy conservation program debt service account for energy improvements as follows. Transferred funding for each year of the biennium to retire bonded projects are University of Montana \$26,500, UM Western \$98,000, UM Helena \$6,000, MSU Northern \$26,700, MSU Billings \$115,219, Great Falls \$86,500. Funding to be transferred for each year of the biennium for state energy revolving projects are UM Western \$41,885, UM Helena \$55,649, UM Montana Tech \$90,266, MSU Billings \$55,323, MSU Northern \$62,063, Miles Community College \$23,553. University of Montana transfers are \$433,405 in FY 2018 and \$371,357 in FY 2019. Montana State University transfers are \$325,388 in FY 2018 and \$277,611 in FY 2019.

Section 12. Rates. Internal service fund type fees and charges established by the legislature for the 2019 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<u>Fiscal 2018</u>	<u>Fiscal 2019</u>
DEPARTMENT OF REVENUE – 5801		
1. Citizen Services and Resource Management		
Division Delinquent Account Collection Fee (maximum percent of amount collected)	5%	5%
DEPARTMENT OF ADMINISTRATION – 6101		
1. Director's Office		
a. Management Services		
Total Allocation of Costs	\$1,499,893	\$1,499,500
Portion of Unit for HR charges per FTE of User Programs	\$891	\$891
b. Continuity, Emergency Preparedness, & Security		
Total Allocation of Costs	\$728,874	\$728,817
2. State Financial Services Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	\$4,008,249	\$3,818,905
b. Warrant Writer		
Mailer	\$0.80301	\$0.80179
Nonmailer	\$0.34725	\$0.34672
Emergency	\$13.02172	\$13.00204
Duplicates	\$8.68115	\$8.66803
Externals		
Externals - Payroll	\$0.14643	\$0.14621
Externals - Other	\$0.11720	\$0.11702
Direct Deposit		
Direct Deposit - Mailer	\$0.95493	\$0.95348
Direct Deposit - No Advice Printed	\$0.13022	\$0.13002
Unemployment Insurance		
Mailer - Print Only	\$0.11408	\$0.11391
Direct Deposit - No Advice Printed	\$0.02872	\$0.02867
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	\$10.135	\$10.323
Non-Office Rent (per sq. ft.)	\$5.330	\$5.330
Project Management - In-house	15%	15%
Project Management - Consultation	Actual Cost	Actual Cost
State Employee Access ID Card	Actual Cost	Actual Cost
b. Print and Mail Services		
Internal Printing		
Impression Cost	Cost + 25%	Cost + 25%
Large Format Color	Cost + 25%	Cost + 25%
Ink	Cost + 25%	Cost + 25%
Bindery Work	Cost + 25%	Cost + 25%
Variable Data Printing	Cost + 25%	Cost + 25%
Pick and Pack Fulfilment	\$1.00	\$1.00
Overtime	\$30.00	\$30.00
Desktop	\$75.00	\$75.00
Scan	\$9.52	\$9.52
IT Programming	\$95.00	\$95.00
File Transfer	\$25.00	\$25.00
Mainframe Printing	\$0.071	\$0.071
Warrant Printing	\$0.25	\$0.25

Inventory Markup	20.0%	20.0%
CD/DVD Duplicating	Cost + 25%	Cost + 25%
Pre-Press Work	Cost + 25%	Cost + 25%
External Printing		
Percent of Invoice markup	8.80%	8.80%
Managed Print		
Percent of Invoice markup	15.9%	15.9%
Mail Preparation		
Tabbing	\$0.023	\$0.023
Labeling	\$0.023	\$0.023
Ink Jet	\$0.036	\$0.036
Inserting	\$0.045	\$0.045
Waymark	\$0.069	\$0.069
Permit Mailings	\$0.069	\$0.069
Mail Operations		
Machinable	\$0.043	\$0.043
Nonmachinable	\$0.110	\$0.110
Seal Only	\$0.020	\$0.020
Postcards	\$0.070	\$0.070
Certified Mail	\$0.620	\$0.620
Registered Mail	\$0.614	\$0.614
International Mail	\$0.510	\$0.510
Flats	\$0.150	\$0.150
Priority	\$0.614	\$0.614
Express Mail	\$0.614	\$0.614
USPS Parcels	\$0.510	\$0.510
Insured Mail	\$0.614	\$0.614
Media Mail	\$0.320	\$0.320
Standard Mail	\$0.200	\$0.200
Postage Due	\$0.061	\$0.061
Fee Due	\$0.061	\$0.061
Tapes	\$0.245	\$0.245
Express Services	\$0.500	\$0.500
Mail Tracking	\$0.250	\$0.250
Cass Letters/Postcards	\$0.047	\$0.047
Cass Flats	\$0.100	\$0.100
Flat Sorter	\$0.250	\$0.250
Interagency Mail	\$360,175 yearly	\$360,175 yearly
Postal Contract (Capitol)	\$38,976 yearly	\$38,976 yearly

4. Information Technology Services Division

Rates Maintained/Based Upon Financial Transparency Model (FTM)

Operations of the Division

30-Day Working Capital Reserve

The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of \$15,656,816 in FY 2018 and \$15,698,331 in FY 2019, operating expenses of \$29,650,069 in FY 2018 and \$29,509,427 in FY 2019, equipment and intangible assets of \$370,861 in FY 2018 and \$370,861 in FY 2019, and debt service of \$626,360 in FY 2018 and \$626,360 in FY 2019. State agencies shall report to the state information technology services division which services they wish to purchase as a result of changes in the fixed costs for information technology services. The state information technology services division shall report to the legislative finance committee at its June 2017 meeting on how they implemented the agency requests. The state information technology services division shall also report any further adjustments to state agency rates for information technology at each subsequent meeting of the legislative finance committee.

5. Health Care and Benefits Division

a. Workers' Compensation Management Program

Administrative Fee	\$0.95	\$0.95
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6. State Human Resources Division

a. Intergovernmental Training

Open Enrollment Courses

Two-Day Course (per participant)	\$190.00	\$190.00
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One-Day Course (per participant)	\$123.00	\$123.00
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Half-Day Course (per participant)	\$95.00	\$95.00
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Eight-Day Management Series (per participant)	\$800.00	\$800.00
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Six-Day Management Series (per participant)	\$600.00	\$600.00
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Four-Day Administrative Series (per participant)	\$400.00	\$400.00
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Contract Courses

Full-Day Training (flat fee)	\$830.00	\$830.00
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Half-Day Training (flat fee)	\$570.00	\$570.00
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Computer Maintenance Charges (course specific)

	\$10.00	\$10.00
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b. Human Resources Information System Fee

Per payroll warrant advice per pay period	\$8.55	\$8.55
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7. Risk Management & Tort Defense

Auto Liability, Comprehensive, and Collision (total allocation to agencies)

\$2,022,570	\$2,022,570
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Aviation (total allocation to agencies)

\$169,961	\$169,961
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General Liability (total allocation to agencies)

\$14,613,042	\$14,613,042
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Property/Miscellaneous (total allocations to agencies)

\$6,930,000	\$6,930,000
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DEPARTMENT OF COMMERCE – 6501

1. Board of Investments

For the purposes of [this act], the legislature defines “rates” as the total collections necessary to operate the board of investments as follows:

a. Administration Charge (total)	\$6,488,749	\$6,488,640
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2. Director's Office/Management Services

a. Management Services Indirect Charge Rate

State	16.35%	16.35%
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Federal	16.35%	16.35%
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DEPARTMENT OF LABOR AND INDUSTRY – 6602

1. Centralized Services Division

a. Cost Allocation Plan	8.19%	7.87%
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b. Office of Legal Services (direct hourly rate)	\$103	\$103
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2. Technology Services Division

a. Technical Services (per FTE)	\$266	\$266
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b. Application Services (per hour)	\$84	\$84
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c. Enterprise Services Rate (Total amount allocated to divisions based on FTE)

\$819,755	\$819,755
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d. Direct Services Rate (pass through to divisions)

Actual cost	Actual Cost
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DEPARTMENT OF FISH, WILDLIFE, & PARKS – 5201

1. Vehicle and Aircraft Rates

Per Mile Rates

a. Sedans	\$0.46	\$0.46
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b. Vans	\$0.53	\$0.53
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c. Utilities	\$0.58	\$0.58
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d. Pickup 1/2 ton	\$0.53	\$0.53
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e. Pickup 3/4 ton	\$0.61	\$0.61
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Per Hour Rates

f. Two-Place Single Engine	\$150.00	\$150.00
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g. Partnavia	\$500.00	\$500.00
h. Turbine Helicopters	\$500.00	\$500.00
2. Duplicating Center		
Per Copy		
a. 1-20	\$0.070	\$0.070
b. 21-100	\$0.075	\$0.075
c. 101 - 1,000	\$0.050	\$0.050
d. 1,001- 5,000	\$0.045	\$0.045
e. color copies	\$0.250	\$0.250
f. Desktop Publisher (per hour)	\$46.36	\$46.36
Bindery		
a. Collating (per sheet)	\$0.010	\$0.010
b. Hand Stapling (per set)	\$0.020	\$0.020
c. Saddle Stitch (per set)	\$0.035	\$0.035
d. Folding (per set)	\$0.010	\$0.010
e. Punching (per set)	\$0.005	\$0.005
f. Cutting (per minute)	\$0.600	\$0.600
3. Warehouse Overhead Rate	25%	25%

DEPARTMENT OF ENVIRONMENTAL QUALITY -- 5301

Indirect Rate

a. Personal Services	24%	24%
b. Operating Expenditures	4%	4%

DEPARTMENT OF TRANSPORTATION -- 5401

1. State Motor Pool

In the motor pool program, if the price of gasoline goes above \$2.78, Tier 2 rates may be charged if approved by the office of budget and program planning. If the price of gasoline goes above \$3.28, Tier 3 rates may be charged if approved by the office of budget and program planning.

Tier one

a. Class 02 (small utilities)		
Per Hour Assigned	\$1.346	\$1.394
Per Mile Operated	\$0.117	\$0.118
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.151	\$0.151
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542
Per Mile Operated	\$0.089	\$0.089
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.106	\$0.106
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.168	\$0.168
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.180	\$0.179
g. Class 12 (vans -- all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.135	\$0.135

Tier two (contingent \$2.78/gallon)

a. Class 02 (small utilities)		
Per Hour Assigned	\$1.346	\$1.394
Per Mile Operated	\$0.138	\$0.139

b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.182	\$0.182
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542
Per Mile Operated	\$0.102	\$0.102
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.125	\$0.125
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.196	\$0.197
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.216	\$0.215
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.160	\$0.160
Tier three (contingent \$3.28/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$1.346	\$1.394
Per Mile Operated	\$0.160	\$0.161
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.994	\$2.033
Per Mile Operated	\$0.214	\$0.214
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.534	\$0.542
Per Mile Operated	\$0.115	\$0.115
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.040	\$1.081
Per Mile Operated	\$0.143	\$0.143
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.341	\$0.348
Per Mile Operated	\$0.225	\$0.226
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.116	\$1.143
Per Mile Operated	\$0.252	\$0.252
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.241	\$1.275
Per Mile Operated	\$0.185	\$0.185
2. Equipment Program		
All of Program Operations	60-day working capital reserve	
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION – 5706		
1. Air Operations Program		
a. Bell UH-1H	\$1,650	\$1,650
b. Bell Jet Ranger	\$515	\$515
c. Cessna 180 Series	\$175	\$175
DEPARTMENT OF JUSTICE – 4110		
1. Agency Legal Services		
a. Attorney (per hour)	\$106.00	\$106.00
b. Investigator (per hour)	\$62.00	\$62.00
DEPARTMENT OF CORRECTIONS - 6401		
1. Labor Charge for Motor Vehicle Maintenance (per hour)	\$28.45	\$28.45
2. Supply Fee as a Percentage of Actual Costs of Parts	8%	8%

	Actual Cost	Actual Cost
3. Parts		
4. Cook/Chill Rate -- Hot/Cold Base Tray Price (no delivery)	\$2.35	\$2.35
5. Cook/Chill Rate -- Hot Base Tray Price	\$1.22	\$1.22
6. Delivery Charge Per Mile	\$0.50	\$0.50
7. Delivery Charge Per Hour	\$35.00	\$35.00
8. Spoilage Percentage All Customers	5%	5%
9. Detention Center Trays	\$2.92	\$2.95
10. Accessory Package	\$0.16	\$0.16
11. Bulk Food	Actual Cost	Actual Cost
12. Overhead Charge		
a. Montana State Hospital	11%	11%
b. Montana State Prison	76%	76%
c. Treasure State Correctional Training Center	13%	13%
13. License Plates -- Cost per set	\$6.20	\$6.20
14. Base Laundry Price per pound	\$0.60	\$0.60
Delivery Charge per pound		
a. Riverside Youth Correctional Facility	\$0.05	\$0.05
b. Montana Law Enforcement Academy	\$0.15	\$0.15
c. Montana Chemical Dependency Corp.	\$0.04	\$0.04
d. START Program	\$0.01	\$0.01
e. University of Montana	\$0.20	\$0.20

OFFICE OF PUBLIC INSTRUCTION - 3501

1. OPI Indirect Cost Pool		
a. Unrestricted Rate	17.0%	17.0%
b. Restricted Rate	17.0%	17.0%

Approved May 9, 2017

CHAPTER NO. 367

[HB 61]

AN ACT GENERALLY REVISING 9-1-1 LAWS; ESTABLISHING A 9-1-1 ADVISORY COUNCIL; ESTABLISHING 9-1-1 ADVISORY COUNCIL AND DEPARTMENT OF ADMINISTRATION DUTIES FOR 9-1-1 SYSTEMS AND SERVICES; PROVIDING RULEMAKING AUTHORITY; CLARIFYING LOCAL GOVERNMENT AND 9-1-1 DISTRICT ROLES; LIMITING PROVIDERS' LIABILITY; PROVIDING DEFINITIONS; UPDATING TERMS TO INCLUDE NEXT-GENERATION 9-1-1; REVISING THE ALLOCATION OF 9-1-1 FEES; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO UPDATE THE ALLOCATION OF 9-1-1 FEES IN ACCORDANCE WITH THE DECENNIAL CENSUS; ESTABLISHING ACCOUNTS FOR DISTRIBUTION OF 9-1-1 FUNDS; REQUIRING THAT CERTAIN FEES COLLECTED FOR 9-1-1 SERVICES BE REALLOCATED UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING A REALLOCATION PROCESS; ESTABLISHING A NEXT-GENERATION 9-1-1 INFRASTRUCTURE ACCOUNT; CREATING A NEXT-GENERATION 9-1-1 INFRASTRUCTURE GRANT PROGRAM; PROVIDING CRITERIA TO THE DEPARTMENT OF ADMINISTRATION FOR AWARDING NEXT-GENERATION 9-1-1 INFRASTRUCTURE GRANTS; ESTABLISHING A 9-1-1 GIS MAPPING ACCOUNT; REQUIRING THE STATE LIBRARY TO AWARD A CONTRACT FOR A GIS ASSESSMENT; ESTABLISHING A STATEWIDE 9-1-1 PLANNING ACCOUNT; REQUIRING THE DEPARTMENT TO AWARD A CONTRACT TO DEVELOP A STATEWIDE

9-1-1 PLAN; ESTABLISHING A PRIVATE TELECOMMUNICATIONS PROVIDER AND LOCAL GOVERNMENT 9-1-1 GRANT PROGRAM; PROVIDING PRIORITIES AND CRITERIA FOR THE 9-1-1 GRANT PROGRAM; TRANSFERRING FUNDS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 10-4-101, 10-4-103, 10-4-201, 10-4-204, 10-4-301, 10-4-302, 10-4-313, AND 17-7-502, MCA; REPEALING SECTIONS 10-4-102, 10-4-104, 10-4-111, 10-4-112, 10-4-113, 10-4-114, 10-4-115, 10-4-121, 10-4-125, 10-4-126, 10-4-301, 10-4-302, 10-4-303, 10-4-311, 10-4-312, AND 10-4-313, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. 9-1-1 advisory council. (1) There is a 9-1-1 advisory council.

(2) The council consists of 17 members appointed by the governor as follows:

(a) the director of the department or the director's designee, who serves as presiding officer of the council;

(b) a representative of the department of justice, Montana highway patrol;

(c) a representative of the Montana emergency medical services association;

(d) three representatives of Montana telecommunications providers, including at least one wireless provider;

(e) a representative of the Montana association of public safety communications officials;

(f) two public safety answering point managers, one serving a population of less than 30,000 and one serving a population of greater than 30,000;

(g) a representative of the department of military affairs, disaster and emergency services division;

(h) a representative of the Montana association of chiefs of police;

(i) a representative of the Montana sheriffs and peace officers association;

(j) a representative of the Montana state fire chiefs' association;

(k) a representative of the Montana state volunteer firefighters association;

(l) a representative of the Montana association of counties;

(m) a representative of the Montana league of cities and towns; and

(n) the state librarian or the state librarian's designee.

(3) The council is attached to the department for administrative purposes only, as provided in 2-15-121.

(4) The council shall, within its authorized budget, hold quarterly meetings.

(5) Council members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in council activities as provided for in 2-18-501 through 2-18-503.

Section 2. 9-1-1 advisory council duties – consultation by department. The 9-1-1 advisory council shall:

(1) advise the department in its duty to allocate and distribute 9-1-1 fees in accordance with [section 7] and to update the allocation and distribution in accordance with rules adopted pursuant to [section 4(3)];

(2) provide recommendations to the department in determining grants awarded in accordance with [section 8];

(3) advise the department in the development of a statewide 9-1-1 plan; and

(4) advise the department on significant matters concerning 9-1-1 systems development and 9-1-1 services in the state of Montana, including rulemaking.

Section 3. Department duties and powers – 9-1-1 planning. (1) There is a 9-1-1 program administered by the department.

(2) The department shall:

(a) allocate and distribute 9-1-1 fees;

(b) update the allocation and distribution of 9-1-1 fees in accordance with [section 7] and rules adopted pursuant to [section 4];

(c) provide grants in accordance with [section 8]. In awarding the grants, the department shall review and approve requests for funding in accordance with [section 8].

(d) monitor the expenditure of program funds for:

(i) 9-1-1 purposes by local governments that host public safety answering points; and

(ii) allowable uses of grant funds by entities;

(e) establish a statewide 9-1-1 plan in accordance with subsection (3) and planning completed in accordance with [section 13];

(f) staff and fund the administrative costs of the 9-1-1 advisory council established in [section 1]; and

(g) accept federal funds granted by congress or by executive order and gifts, grants, and donations for the purposes of administering this chapter.

(3) A statewide 9-1-1 plan must include:

(a) to the maximum extent feasible the use of existing commercial communications infrastructure; and

(b) 9-1-1 system standards and support efforts to migrate legacy technologies to next-generation 9-1-1 technologies when appropriate and to provide for the implementation of future 9-1-1 technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next-generation 9-1-1 technologies must be:

(i) flexible and graduated, while ensuring minimum service levels; and

(ii) based on industry standards.

(4) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local governments. If a local government does not comply with the request, the department may withhold funding distributions as provided for in [section 5].

Section 4. Rulemaking authority. (1) Before July 1, 2018, the department shall adopt rules to implement the provisions of this chapter. The rules must include but are not limited to:

(a) distribution procedures for funding authorized in [section 7(1)];

(b) procedures for grant funding authorized in [section 8]. The rules for grant funding must include but are not limited to:

(i) eligibility requirements for entities applying for grants;

(ii) criteria for awarding grants; and

(iii) reporting procedures for grant recipients;

(c) postdisbursement activities by the department to monitor the use of funding by entities, including:

(i) reporting requirements; and

(ii) procedures for repayment of funds expended on activities determined not to meet eligibility requirements.

(2) Before January 1, 2019, the department shall adopt rules including but not limited to:

(a) technology standards, based on industry standards and a statewide 9-1-1 plan pursuant to [section 13], to ensure that public safety answering points meet minimum 9-1-1 services levels; and

(b) baseline next-generation 9-1-1 principles to facilitate the appropriate deployment of baseline next-generation 9-1-1.

(3) Before January 1, 2022, the department shall adopt rules for the allocation and distribution of funds in the account provided for in [section 6(2)(a)] in accordance with [section 7(2) and (3)] to local government entities that host public safety answering points.

(a) The rules adopted for allocation must be based on the official final decennial census figures and must ensure that each local government entity that hosts a public safety answering point receives funding. The allocation must account for:

- (i) historic allocations provided to a local government entity that hosts a public safety answering point;
- (ii) the population of counties, cities, or other government entities served by the public safety answering point;
- (iii) population trends; and
- (iv) other factors determined by the department, in consultation with the 9-1-1 advisory council provided for in [section 1], critical to the funding allocation.

(b) The department's allocation may not distribute funds in a manner that discourages public safety answering points from consolidating or combining.

(4) The department shall adopt rules in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4, to implement the provisions of this section.

Section 5. Local government entities and funding – department delegation. (1) After the department determines baseline next-generation 9-1-1 principles in accordance with rules adopted pursuant to [section 4(2)] and a statewide 9-1-1 plan, the department shall delegate implementation to local government entities that host public safety answering points.

(2) If the department determines through its monitoring process that a local government entity that hosts a public safety answering point is not using funds in the manner prescribed in this chapter or has failed to provide information required by the department, the department may, after notice and hearing, suspend payment to the local government entity. The local government entity is not eligible to receive funds until the department determines that the local government is complying with department requirements or has provided the requested information.

Section 6. Establishment of 9-1-1 accounts. (1) Beginning July 1, 2018, there is established in the state special revenue fund an account for fees collected for 9-1-1 services pursuant to 10-4-201.

(2) Funds in the account are statutorily appropriated to the department, as provided in 17-7-502. Except as provided in subsection (3), beginning July 1, 2018, funds that are not used for the administration of this chapter by the department are allocated as follows:

(a) 75% of the account must be deposited in an account for distribution to local government entities that host public safety answering points in accordance with [section 7] and with rules adopted by the department in accordance with [section 4]; and

(b) 25% of the account must be deposited in an account for distribution in the form of grants to private telecommunications providers, local government entities that host public safety answering points, or both in accordance with [section 8].

(3) Beginning July 1, 2018, all money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account.

(4) The accounts established in subsections (1) and (2) retain interest earned from the investment of money in the accounts.

Section 7. Distribution of 9-1-1 systems account by department. (1) Beginning July 1, 2018, and for each quarter after that until the first quarter of the 2023 fiscal year, the department shall distribute the total quarterly balance of the account provided for in [section 6(2)(a)] as follows:

(a) each local government entity that hosts a public safety answering point must receive an allocation of the total quarterly balance of the account equal in proportion to the quarterly share received by the local government entity that hosts the public safety answering point during the 2017 fiscal year;

(b) each local government entity that hosts a public safety answering point must receive an allocation in accordance with subsection (1)(a). The allocation may vary from the amount distributed during the 2017 fiscal year based on the amount collected by the department of revenue in accordance with 10-4-201(1)(a).

(2) Beginning July 1, 2022, and in accordance with subsection (3), the department shall allocate and distribute the total quarterly balance of the account provided for in [section 6(2)(a)] based on rules adopted by the department in accordance with [section 4(3)].

(3) Within 1 year after the official final decennial census figures are available, the department shall update the rules establishing the quarterly allocation and distribution provided for in subsection (2) and allocate and distribute the quarterly balance for each quarter after that until the next update.

Section 8. 9-1-1 grants. (1) The department shall, in consultation with the 9-1-1 advisory council created pursuant to [section 1], award competitive grants annually using the account established pursuant to [section 6(2)(b)] for private telecommunications providers and for local government entities that host public safety answering points. Beginning July 1, 2018, grants must be awarded to private telecommunications providers, local government entities that host public safety answering points, or both in accordance with this section and with rules adopted by the department in accordance with [section 4].

(2) In accordance with subsection (3), grants may be awarded to private telecommunications providers and to local government entities that host public safety answering points for:

- (a) emergency telecommunications systems plans;
- (b) project feasibility studies or project plans;
- (c) the implementation, operation, and maintenance of 9-1-1 systems, equipment, devices, and data; and
- (d) the purchase of services that support 9-1-1 systems.

(3) In awarding grants, preference must be given to applications in the following order of priority:

(a) requests by private telecommunications providers or by local government entities that host public safety answering points by working with a private telecommunications provider; and

(b) requests by local government entities that host public safety answering points.

(4) Nothing in this section prevents a local government entity that hosts a public safety answering point in accordance with this section from:

(a) providing grant money received by the local government entity to a private telecommunications provider for 9-1-1 purposes; or

(b) collaborating with another local government entity on a joint grant application.

Section 9. Baseline next-generation 9-1-1 account transfers. (1) After the department makes distributions for the final quarter of the 2017 fiscal year from the wireless enhanced 9-1-1 account established in 10-4-301(1)(c), the department shall transfer:

(a) \$5 million into the next-generation 9-1-1 infrastructure account established in accordance with [section 10];

(b) \$80,000 into the 9-1-1 GIS mapping account established in accordance with [section 12]; and

(c) \$350,000 into the statewide 9-1-1 planning account established in accordance with [section 13].

(2) The allocations in subsection (1) may be used only in accordance with [sections 10 through 13].

Section 10. Next-generation 9-1-1 infrastructure account created – source of funding – use of account. (1) There is an account in the state special revenue fund to be known as the next-generation 9-1-1 infrastructure account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money in accordance with [section 9(1)(a)] for the purposes of [section 11]; and

(c) a gift, donation, grant, legacy, bequest, or devise made for the purposes of [section 11].

(3) Except as provided in subsection (4), the account may be used only by the department to provide grants for next-generation 9-1-1 infrastructure as provided in [section 11] to a local government entity working with a private telecommunications provider.

(4) At the end of fiscal year 2019, any unexpended balance in the account must be transferred to the account established by the department in accordance with [section 6(2)(b)].

Section 11. Next-generation 9-1-1 infrastructure grants – criteria – rulemaking. (1) Money deposited in the next-generation 9-1-1 infrastructure account established in [section 10] may be expended by the department through a grant to a local government working with a private telecommunications provider for next-generation 9-1-1 infrastructure.

(2) For the purposes of [section 10] and this section, the following definitions apply:

(a) “ESInet” means an emergency services IP network. It includes the IP infrastructure on which independent application platforms and core functional processes are deployed.

(b) “IP” means internet protocol, or the method by which data are sent on the internet, or a communications protocol for computers connected to a network, especially the internet.

(c) “Next-generation 9-1-1 infrastructure” means a statewide ESInet, upgrades and replacement of existing selective routers with IP routers, and upgrades to all non-IP-capable public safety answering points for IP capability.

(3) In making grant awards under this section, the department shall give preference to local governments working with private telecommunications providers that the local government determines can most effectively implement infrastructure improvements.

(4) The department shall consult with and consider recommendations by the 9-1-1 advisory council established in [section 1] for awards made under this section.

(5) The department may adopt rules to administer the provisions of [section 10] and this section. The rules must ensure that all local governments are treated equitably and must include but are not limited to provisions regarding:

(a) applications;

(b) timelines;

(c) eligibility, including proof of eligibility;

(d) the procedure for establishing the priority of grant awards;

(e) the appeal process for grant applications that are denied; and

(f) disbursement of grant money to providers.

(6) Before September 1, 2018, the department shall report to the energy and telecommunications interim committee provided for in 5-5-230 on efforts to distribute grants in accordance with [section 10] and this section.

(7) Before September 1, 2019, the department shall produce a report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients. The department shall provide the report to the energy and telecommunications interim committee.

Section 12. 9-1-1 GIS mapping account created – source of funding – use of account. (1) There is an account in the state special revenue fund to be known as the 9-1-1 GIS mapping fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money by the department in accordance with [section 9(1)(b)] for use in accordance with subsection (3) of this section; and

(c) any gift, donation, grant, legacy, bequest, or devise made for the purposes of subsection (3).

(3) The account may be used only by the state library provided for in 22-1-102 in carrying out its land information and management duties to award a contract in accordance with 18-1-102 to assess the status of GIS adoption and operations in Montana as they pertain to next-generation 9-1-1.

(4) Before September 1, 2018, the state library shall produce a report summarizing the status of GIS adoption and operations in Montana as they pertain to next-generation 9-1-1, including policy and funding recommendations necessary to use GIS to advance next-generation 9-1-1. The state library shall provide the report to the energy and telecommunications interim committee provided for in 5-5-230.

(5) At the end of fiscal year 2019, any unexpended balance in the account must be transferred to the account established by the department in accordance with [section 6(2)(b)].

Section 13. Statewide 9-1-1 planning account created – source of funding – use of account. (1) There is an account in the state special revenue fund to be known as the statewide 9-1-1 planning account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money by the department in accordance with [section 9(1)(c)] for use in accordance with subsections (3) through (5) of this section; and

(c) any gift, donation, grant, legacy, bequest, or devise made for the purposes of subsections (3) through (5).

(3) The account may be used only by the department to award a contract in accordance with 18-1-102 and after consulting with the 9-1-1 advisory council created in [section 1] to develop a statewide 9-1-1 plan.

(4) A statewide 9-1-1 plan must include proposed:

(a) priorities for 9-1-1 systems in Montana and plans for next-generation 9-1-1 technology deployment;

(b) potential formulas and methods to distribute 9-1-1 money;

(c) uniform standards relating to technology, next-generation 9-1-1 technology, and administration and operation of 9-1-1 systems in Montana;

(d) steps to promote collaboration among local governments and greater incentives for cooperation among local governments and public safety answering points to improve efficiency by developing interconnectivity of 9-1-1

systems through partnerships for enhancement, operation, and maintenance of the network;

(e) eligible uses for money received by local governments in accordance with this chapter;

(f) audits or other steps necessary to ensure program compliance from entities receiving disbursements in accordance with this chapter;

(g) necessary plans to include, to the maximum extent feasible, the use of existing commercial communications infrastructure; and

(h) additional changes needed to this chapter to migrate legacy 9-1-1 systems and to accommodate evolving, future 9-1-1 technologies.

(5) Before September 1, 2018, the 9-1-1 advisory council shall review the proposals and make its recommendations to the department on implementing the recommendations.

(6) At the end of fiscal year 2019, any unexpended balance in the account must be transferred to the account established by the department in accordance with [section 6(2)(b)].

Section 14. Limitation on liability. (1) Except as provided in subsection (2), a provider and its employees, directors, officers, and agents are not liable for death or injury to any person or for damage to property as a result of developing, adopting, establishing, participating in, implementing, maintaining, or carrying out duties involved in or related to a 9-1-1 system or to emergency communications or 9-1-1 calls, including but not limited to the identification of phone numbers, addresses, or names associated with a person involved in an emergency communication or 9-1-1 call.

(2) The immunity granted by subsection (1) does not extend to liability resulting from gross negligence, willful or wanton misconduct, or an intentional tort.

Section 15. Provider obligations -- limitations. Nothing in this chapter:

(1) relieves a provider from its obligations pursuant to parts 1 through 3 of this chapter, including obligations pursuant to 10-4-201 to collect 9-1-1 fees from customers on a per access line basis; or

(2) grants the department the authority to regulate the services offered by an originating service provider.

Section 16. Section 10-4-101, MCA, is amended to read:

"10-4-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) ~~"Allowable costs" means the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.~~

(2) ~~"Basic 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(a).~~

(3) ~~"Basic 9-1-1 service" means a telephone service meeting the standards established in 10-4-103 that automatically connects a person dialing the digits 9-1-1 to an established public safety answering point.~~

(4) ~~"Basic 9-1-1 system" includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.~~

(1) *"9-1-1 system" means telecommunications facilities, circuits, equipment, device, software, and associated contracted services for the transmission of*

emergency communications. A 9-1-1 system includes the transmission of emergency communications:

(a) from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, and transfer of emergency communications; and

(b) to or from a public safety answering point to or from emergency service units.

(2) "Access line" means a voice service of a provider of exchange access services, a wireless provider, or a provider of interconnected voice over IP service that has enabled and activated service for its subscriber to contact a public safety answering point via a 9-1-1 system by entering or dialing the digits 9-1-1. When the service has the capacity, as enabled and activated by a provider, to make more than one simultaneous outbound 9-1-1 call, then each separate simultaneous outbound call, voice channel, or other capacity constitutes a separate access line.

(5)(3) "Commercial mobile radio service" means:

(a) a mobile service that is:

(i) provided for profit with the intent of receiving compensation or monetary gain;

(ii) an interconnected service; and

(iii) available to the public or to classes of eligible users so as to be effectively available to a substantial portion of the public; or

(b) a mobile service that is the functional equivalent of a mobile service described in subsection (5)(a) (3)(a).

(6)(4) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(7) "Direct dispatch" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, provides for a decision as to the proper action to be taken and for dispatch of appropriate emergency service units.

(5) "Emergency communications" means any form of communication requesting any type of emergency services by contacting a public safety answering point through a 9-1-1 system, including voice, nonvoice, or video communications, as well as transmission of any text message or analog digital data.

(8) "Emergency" means an event that requires dispatch of a public or private safety agency.

(9)(6) "Emergency services" means services provided by a public or private safety agency, including law enforcement, firefighting, ambulance or medical services, and civil defense services.

(10) "Enhanced 9-1-1 account" means the 9-1-1 emergency telecommunications account established in 10-4-301(1)(b).

(11) "Enhanced 9-1-1 service" means telephone service that meets the requirements for basic 9-1-1 service and that consists of selective routing with the capability of automatic number identification and automatic location identification at a public safety answering point enabling users of the public telecommunications system to request emergency services by dialing the digits 9-1-1.

(12) "Enhanced 9-1-1 system" includes customer premises equipment that is directly related to the operation of an enhanced 9-1-1 system, including but not limited to automatic number identification or automatic location identification controllers and display units, printers, and software associated with call detail recording, and that is capable of providing enhanced 9-1-1 service.

(13)(7) "Exchange access services" means:

(a) telephone exchange access lines or channels that provide local access from the premises of a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) unless a separate tariff rate is charged for the exchange access lines or channels, any a facility or service provided in connection with the services described in subsection ~~(13)(a)~~ (7)(a).

~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.~~

~~(8) "Interconnected voice over IP service" means a service that:~~

~~(a) enables real-time, two-way voice communications;~~

~~(b) requires a broadband connection from a user's location;~~

~~(c) requires IP-compatible customer premises equipment; and~~

~~(d) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.~~

~~(9) "IP" means internet protocol, or the method by which data are sent on the internet, or a communications protocol for computers connected to a network, especially the internet.~~

~~(10) "Local government" has the meaning provided in 7-11-1002.~~

~~(11) "Next-generation 9-1-1" means a system composed of hardware, software, data, and operational policies and procedures that:~~

~~(a) provides standardized interfaces from call and message services;~~

~~(b) processes all types of emergency calls, including nonvoice or multimedia messages;~~

~~(c) acquires and integrates additional data useful to emergency communications;~~

~~(d) delivers the emergency communications or messages, or both, and data to the appropriate public safety answering point and other appropriate emergency entities;~~

~~(e) supports data and communications needs for coordinated incident response and management; and~~

~~(f) provides a secure environment for emergency communications.~~

~~(12) "Originating service provider" means an entity that provides capability for a retail customer to initiate emergency communications.~~

~~(15)(13) "Per capita basis" means a calculation made to allocate a monetary amount for each person residing within the jurisdictional boundary of a county according to the most recent decennial census or population estimate compiled by the United States bureau of the census.~~

~~(16) "Phase I wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information to the public safety answering point for wireless calls.~~

~~(17) "Phase II wireless enhanced 9-1-1" means a 9-1-1 system that automatically delivers number information and location information to the public safety answering point for wireless calls.~~

~~(18) "Place of primary use" means the primary business or residential street address location at which an end-use customer's use of the commercial mobile radio service primarily occurs.~~

~~(19)(14) "Private safety agency" means any an entity, except a public safety agency, providing emergency fire, ambulance, or medical services.~~

~~(20)(15) "Provider" means a public utility, a cooperative telephone company, a wireless provider, a provider of interconnected voice over IP service, a provider~~

of exchange access services, or any other entity that provides telephone exchange access services access lines.

(21)(16) "Public safety agency" means ~~the state and any city, county, city-county consolidated government, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state that provides or has authority to provide emergency services a functional division of a local government or the state that dispatches or provides law enforcement, firefighting, or emergency medical services or other emergency services.~~

(22)(17) "Public safety answering point" means a communications facility operated on a 24-hour basis that first receives 9-1-1 calls ~~emergency communications from persons in a 9-1-1 service area requesting emergency services and that may, as appropriate, directly dispatch public or private safety emergency services or transfer or relay 9-1-1 calls the emergency communications to appropriate public safety agencies.~~

(23)(18) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, notes the pertinent information from the caller and relays the information to the appropriate public safety agency, other agencies, or other providers of emergency services for dispatch of an emergency unit.

(24)(19) "Subscriber" means an end user who ~~receives telephone exchange access services has an access line or~~ who contracts with a wireless provider for commercial mobile radio services.

(25)(20) "Transfer" means a 9-1-1 service in which a public safety answering point, upon receipt of a telephone request for emergency services, directly transfers the request to an appropriate public safety agency or other ~~provider of emergency services provider.~~

(26) "Wireless enhanced 9-1-1" means ~~either phase I wireless enhanced 9-1-1 or phase II wireless enhanced 9-1-1.~~

(27) "Wireless enhanced 9-1-1 account" means ~~the wireless enhanced 9-1-1 account established in 10-4-301.~~

(28)(21) "Wireless provider" means an entity, as defined in 35-1-113, that is authorized by the federal communications commission to provide facilities-based commercial mobile radio service within this state."

Section 17. Section 10-4-103, MCA, is amended to read:

"10-4-103. Emergency telephone system requirements. (1) Every public and private safety agency in this state may establish or participate in a basic or enhanced 9-1-1 system.

(2) A basic 9-1-1 system must include:

(a) a 24-hour communications facility automatically accessible anywhere in the 9-1-1 ~~jurisdiction's public safety answering point's~~ service area by dialing 9-1-1;

(b) direct dispatch of public and private safety services in the 9-1-1 ~~jurisdiction public safety answering point's~~ service area or relay or transfer of 9-1-1 calls ~~communications~~ to an appropriate public or private safety agency; and

(c) a 24-hour communications facility equipped with at least two trunk-hunting local access circuits provided by the local telephone company's central office;;

(3) ~~An enhanced 9-1-1 system must include, in addition to the requirements for a basic 9-1-1 system:~~

(a)(d) automatic number identification that automatically identifies and displays the calling telephone number at the public safety answering point; and

(b)(e) automatic location identification that automatically identifies and displays the ~~address~~ *location* of the calling telephone at the public safety answering point.

(4)(3) The primary emergency telephone number within the state is 9-1-1, but a public safety answering point shall maintain both a separate seven-digit secondary emergency number for use by the telephone company operator and a separate seven-digit nonemergency number.”

Section 18. Section 10-4-201, MCA, is amended to read:

“10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202:

(a) for ~~basic~~ 9-1-1 services, a fee of ~~25~~ 75 cents a month per access line on each service subscriber in the state is imposed ~~on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services for the administration of 9-1-1 programs in accordance with [section 7]; and~~

(b) for ~~enhanced 9-1-1 services, a fee of 25 cents a month per access line on each service subscriber in the state is imposed on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services; and~~

(c) for ~~wireless enhanced 9-1-1 services, a fee of 50~~ 25 cents a month per access line ~~or on each~~ subscriber in the state is imposed ~~on the amount charged for telephone exchange access services, wireless telephone service, or other 9-1-1 accessible services for the grants provided in accordance with [section 8].~~

(2) The subscriber paying for ~~exchange an~~ access line ~~services~~ is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return.”

Section 19. Section 10-4-204, MCA, is amended to read:

“10-4-204. Deadlines for filing returns. (1) The provider collecting the fee under 10-4-201 must file a return with the department of revenue on or before the last day of the month following the end of each calendar quarter, reporting the amount of fee due on ~~exchange access line services~~ *lines* during the quarter. Returns are subject to the penalty for false swearing provided in 45-7-202.

(2) When a return of the fee is required, the provider required to make the return shall pay the fee due the department of revenue at the time fixed for filing the return.

(3) The provider shall pay the fee based on the net amount billed for the ~~exchange access service line~~ fee during the quarter.

(4) As used in this section, the “net amount billed for the ~~exchange access service line~~ fee” equals the gross amount billed for ~~such the~~ service, less adjustments for uncollectible accounts, refunds, incorrect billings, and other appropriate adjustments.”

Section 20. Section 10-4-301, MCA, is amended to read:

“10-4-301. Establishment of emergency telecommunications accounts. (1) There are established in the state special revenue fund in the state treasury:

(a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a);

(b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b); and

(c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1)(c). The money is allocated as follows:

(i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and

(ii) 50% of the account must be deposited in an account for distribution to wireless providers *or must be deposited in accordance with [section 9]*.

(2) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account. An amount equal to 2.74% of the money received pursuant to 10-4-201 must be deposited in an account in the state special revenue fund to be used for the administration of this chapter. Any remaining funds at the end of a fiscal year must be equally distributed to each of the four accounts provided for in subsection (1).

(3) The accounts established in subsection (1) retain interest earned from the investment of money in the accounts.

(4) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(5) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

(6) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

Section 21. Section 10-4-302, MCA, is amended to read:

"10-4-302. Distribution of basic 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire basic 9-1-1 account. The distributions must be made for the costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

(a) collection of the fees imposed by 10-4-201; *and*

(b) modification of central office switching and trunking equipment for emergency telephone service only; ~~and~~

(c) ~~conversion of pay station telephones required by 10-4-121.~~

(2) Payments under subsection (1) may be made only after application by the provider to the department for costs incurred in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by a 9-1-1 jurisdiction with an approved final plan the proportional amount for each city or county served by the 9-1-1 jurisdiction. The department shall provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(4) If the department through its monitoring process determines that a 9-1-1 jurisdiction is not adhering to an approved plan, is not using funds in

the manner prescribed in 10-4-303, or has failed to provide information as provided in ~~10-4-102(3)~~ [section 3(4)], the department may, after notice and hearing, suspend payment to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds until the department determines that the jurisdiction is complying with the approved plan and fund usage limitations or has provided the requested information.”

Section 22. Section 10-4-313, MCA, is amended to read:

“10-4-313. Distribution of wireless enhanced 9-1-1 account by department. (1) Except as provided in [section 9] and subsection (2) of this section, the department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties’ share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties’ share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider’s subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider’s percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed

in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) (a) Except as provided in subsection (3) and after the distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:

(i) determine an amount equal to 50% of the total balance included in the account under 10-4-301(1)(c)(ii); and

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

(b) If the amount determined pursuant to subsection (2)(a)(i) is insufficient to reimburse all wireless providers in full in accordance with subsection (2)(a)(ii), the department shall proportionately, based on outstanding balances, distribute the money to each wireless provider that has an unpaid balance carried over pursuant to subsection (1)(c).

(3) Funds may not be reallocated in accordance with subsection (2) if the county contains less than 1% of the state population.

(4) ~~Any~~ *Except as provided in [section 9], any* reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2019:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less ~~than 1%~~ of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (5)(a)(i) and (5)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, 2019, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account."

Section 23. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; ~~10-4-301 [section~~

6/; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 24. Repealer. The following sections of the Montana Code Annotated are repealed:

- 10-4-102. Department of administration duties and powers.
- 10-4-104. Agreements among safety agencies for rendering emergency services.
- 10-4-111. Submission of preliminary plans for 9-1-1 jurisdictions -- review -- cost estimates.
- 10-4-112. Submission and approval of final plans -- exception.
- 10-4-113. Requirement for approval of final plan -- department to insure compliance.
- 10-4-114. Rulemaking authority.
- 10-4-121. Pay phones to be converted to allow emergency calls without charge.
- 10-4-125. Submission of revised plan for conversion from basic 9-1-1 to enhanced 9-1-1.
- 10-4-126. Dedicated 9-1-1 telephone facilities to be provided -- capabilities.

Section 25. Repealer. The following sections of the Montana Code Annotated are repealed:

- 10-4-115. Submission of phase I and phase II wireless notification by wireless provider.
- 10-4-301. Establishment of emergency telecommunications accounts.
- 10-4-302. Distribution of basic 9-1-1 account by department.
- 10-4-303. Limitation on use of basic 9-1-1 funds.
- 10-4-311. Distribution of enhanced 9-1-1 account by department.
- 10-4-312. Limitation on use of enhanced 9-1-1 funds.
- 10-4-313. Distribution of wireless enhanced 9-1-1 account by department.

Section 26. Transfer of funds. (1) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3, for the final quarter of the 2018 fiscal year, the department of administration shall transfer any balance remaining in the accounts in 10-4-301(1)(a), 10-4-301(1)(b), and 10-4-301(1)(c)(i) into the account established in [section 6(2)(a)].

(2) After the distribution of 9-1-1 funds in accordance with Title 10, chapter 4, part 3, for the final quarter of the 2018 fiscal year, the department of administration shall transfer any balance remaining in the account in 10-4-301(1)(c)(ii) into the account established in [section 6(2)(b)].

Section 27. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 28. Codification instruction. (1) [Sections 1 through 5] and [sections 14 and 15] are intended to be codified as an integral part of Title 10, chapter 4, part 1, and the provisions of Title 10, chapter 4, part 1, apply to [sections 1 through 5] and [sections 14 and 15].

(2) [Sections 6 through 13] are intended to be codified as an integral part of Title 10, chapter 4, part 3, and the provisions of Title 10, chapter 4, part 3, apply to [sections 6 through 13].

Section 29. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 30. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 31. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 14 through 19, 23, and 25] are effective July 1, 2018.

Section 32. Termination. [Sections 9 through 13] terminate October 1, 2019.

Approved May 9, 2017

CHAPTER NO. 368

[HB 103]

AN ACT GENERALLY REVISING LAWS RELATING TO ELECTIONS; REVISING CERTAIN DEFINITIONS AND TERMS; REVISING CERTAIN REQUIREMENTS RELATED TO BALLOTS CAST FOR DISABLED ELECTORS; REVISING TERMINOLOGY RELATED TO VOTER REGISTRATION FORMS, VOTER LISTS, AND VOTER RECORDS; REVISING ELECTION JUDGE INSTRUCTION; REVISING NOTICE REQUIREMENTS FOR ABSENTEE BALLOT COUNTING; REVISING CERTAIN TIMELINES FOR THE COUNTING OF FEDERAL WRITE-IN BALLOTS; UPDATING LANGUAGE REGARDING BALLOT ISSUE CERTIFICATION; SUBSTITUTING THE SECRETARY OF STATE FOR THE ELECTION ADMINISTRATOR WITH RESPECT TO PROPOSED CONSTITUTIONAL AMENDMENT NOTIFICATION; UPDATING THE METHOD FOR CANVASSING BALLOT ISSUES; ELIMINATING CERTAIN REQUIREMENTS CONCERNING JOINDER OF PARTIES IN ACTIONS TO COMPEL A REGISTRAR TO ENTER AN ELECTOR IN A PRECINCT REGISTER; ELIMINATING AUTHORIZATION TO HOLD A MILL LEVY FOR ADMINISTERING AN ABSENTEE ELECTION BOARD PROGRAM; ELIMINATING A REQUIREMENT FOR NOTIFICATION IF RETURNS NOT RECEIVED FROM COUNTIES; AMENDING SECTIONS 13-1-101, 13-1-116, 13-1-121, 13-2-220, 13-2-512, 13-2-513, 13-3-213, 13-4-203, 13-10-404, 13-10-602, 13-13-114, 13-13-213, 13-13-241, 13-13-245, 13-15-105, 13-15-107, 13-15-205, 13-19-303, 13-19-304, 13-21-104, 13-21-206, 13-27-103, 13-27-204, 13-27-205, 13-27-206, 13-27-207, 13-27-303, 13-27-304, 13-27-308, 13-27-311, 13-27-503, AND 13-35-207, MCA; REPEALING SECTIONS 13-1-122, 13-2-601, 13-2-602, 13-13-230, AND 13-15-503, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-101, MCA, is amended to read:

“13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Active elector” means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) “Active list” means a list of active electors maintained pursuant to 13-2-220.

(3) “Anything of value” means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) “Application for voter registration” means a voter registration form prescribed by the secretary of state that is completed and signed by an elector,

is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) “Ballot” means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) “Ballot issue” or “issue” means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7) “Ballot issue committee” means a political committee specifically organized to support or oppose a ballot issue.

(8) “Candidate” means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual’s behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(9) (a) “Contribution” means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) “Contribution” does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.

(10) “Coordinated”, including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) “De minimis act” means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or

disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

(12) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(13) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(14) (a) "Election communication" means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;

(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

(15) "*Election judge*" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform duties as specified by law.

(15)(16) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

(16)(17) "Elector" means an individual qualified to vote under state law.

(17)(18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(18)(19) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(19)(20) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

(20)(21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(21)(22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(22)(23) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection (22) (23), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

(23)(24) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

(24)(25) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

(25)(26) "Individual" means a human being.

(26)(27) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(27)(28) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(28)(29) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

(29)(30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(30)(31) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

(31)(32) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(32)(33) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

(33)(34) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

(34)(35) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(35)(36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

(36)(37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(37)(38) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(38)(39) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(39)(40) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(40)(41) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(41)(42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

(42)(43) "School election" has the meaning provided in 20-1-101.

(43)(44) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(44)(45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(45)(46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(46)(47) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(47)(48) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(48)(49) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(49)(50) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(50) "Transfer form" means a form prescribed by the secretary of state that ~~may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.~~

(51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(52) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(53) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 2. Section 13-1-116, MCA, is amended to read:

"13-1-116. Fingerprint, mark, or agent for disabled electors – rulemaking. (1) Except as otherwise specified by law, the provisions of this section apply.

(2) Whenever a signature is required by an elector under a provision of this title and the elector is unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to subsection (6), or an identifying

mark or may request that an agent, election administrator, or election judge sign for the elector as provided in this section.

(3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the elector after reviewing and verifying the elector's identification.

(4) (a) An elector who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to this title and for providing any other assistance to the elector throughout the registration and voting process. The use of an agent is a reasonable accommodation under the provisions of 49-2-101(19)(b).

(b) An application for designation of an agent by an elector under this section must be made on a form prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be met and the process that must be followed in order for a person to become a designated agent for a disabled elector pursuant to this subsection (4).

(5) If an ~~agent~~, election administrator, or election judge signs or marks a document for an elector pursuant to this section, the ~~agent~~, election administrator, or election judge shall initial the signature or mark.

(6) A disabled elector may not be required to provide a fingerprint."

Section 3. Section 13-1-121, MCA, is amended to read:

"13-1-121. Question of holding constitutional convention – form and content. (1) Unless otherwise submitted earlier, the secretary of state shall cause the question of holding an unlimited constitutional convention to be submitted to the people at the general election in 1990. The same question ~~shall~~ *must* be submitted at the general election in each 20th year following its last submission, unless otherwise submitted earlier.

(2) *The ballot submitting the question to the people must contain the following:*

Article XIV, sections 3 and 4, of the Montana constitution require the question of holding an unlimited constitutional convention to be submitted to the people at the general election in each 20th year following its last submission. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling of a constitutional convention at its next session.

[] FOR calling a constitutional convention

[] AGAINST calling a constitutional convention"

Section 4. Section 13-2-220, MCA, is amended to read:

"13-2-220. Maintenance of active and inactive voter registration lists for elections – rules by secretary of state. (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow in every odd-numbered year:

(a) compare the entire list of registered electors against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, "return if undeliverable--address correction requested" notice to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors who failed to vote in the preceding federal general election, applicants who failed to provide required information on registration ~~cards~~ *forms*, and provisionally registered electors by:

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) An individual who submits an application for an absentee ballot for a federal general election or who completes and returns the address confirmation notice specified in 13-13-212(3) during the calendar year in which a federal general election is held is not subject to the procedure in subsection (1)(c) unless the individual's ballot for a federal general election is returned as undeliverable and the election administrator is not able to contact the elector through the most expedient means available to resolve the issue.

(3) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, *after the 30th day*, the election administrator shall move the elector to the inactive list.

(4) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(5) An elector's registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402."

Section 5. Section 13-2-512, MCA, is amended to read:

"13-2-512. Right to vote when precinct or name changed – change of status. (1) An elector who has changed residence to a different precinct within the same county and has failed to notify the election administrator of the change by a ~~transfer or~~ new registration form may vote at the polling place or by absentee or mail ballot in the precinct where the elector is registered at the first election at which the elector offers to vote after the change or at a central location designated by the election administrator unless the elector's registration has been canceled as provided in 13-2-402.

(2) An elector who still resides in the same precinct where registered, whose name has changed, and who has failed to notify the election administrator of the change by a new registration form may vote under the elector's former name at the first election at which the elector offers to vote after the change unless the elector's registration has been canceled as provided in 13-2-402.

(3) The elector shall state the elector's correct residence address and name when offering to vote and shall complete a ~~transfer form or~~ new registration form to make the necessary correction before being allowed to vote in a polling place election or by absentee or mail ballot."

Section 6. Section 13-2-513, MCA, is amended to read:

"13-2-513. Procedure for transferring or correcting or updating registration. Subject to the rules adopted under 13-2-108, the election administrator shall make the necessary corrections *or updates* in the registration records when the election administrator receives a ~~transfer form or corrected or updated~~ registration form."

Section 7. Section 13-3-213, MCA, is amended to read:

"13-3-213. Alternative means for casting ballot. (1) The election administrator shall provide individuals with disabilities and elderly individuals

an alternative means for casting a ballot on election day if they are assigned to an inaccessible polling place. These alternative means for casting a ballot include:

- (a) delivery of a ballot to the elector as provided in 13-13-118;
 - (b) voting by absentee ballot as provided in 13-13-222; and
 - (c) prearranged assignment to an accessible polling place within the county.
- (2) An elector with a disability or an elderly elector assigned to an inaccessible polling place who desires to vote at an accessible polling place:
- (a) shall request assignment to an accessible polling place by notifying the election administrator in writing at least 7 days preceding the election;
 - (b) must be assigned to the nearest accessible polling place for the purpose of voting in the election;
 - (c) shall sign the elector's name on a special addendum to the official precinct register as required in ~~13-2-601~~ *subsection (4)*; and
 - (d) must receive the same ballot to which the elector is otherwise entitled.
- (3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be processed and counted in the same manner as an absentee ballot.
- (4) *The name of an elector who has been assigned to vote in a precinct other than the precinct in which the person is registered, as provided in subsection (2), must be printed on a special addendum to the precinct register in a form prescribed by the secretary of state.*

Section 8. Section 13-4-203, MCA, is amended to read:

"13-4-203. Instruction of judges – training materials. (1) Before each election, all election judges must be instructed by the election administrator *on current procedures as prescribed by the secretary of state*. In precincts where voting systems are used, instructions must cover both how to operate the voting system and how to manually process any paper ballots.

(2) An election administrator may require a chief election judge to attend the training session before each election, as well as a special session that the election administrator may hold for chief election judges only, even if the chief election judge possesses a current certificate of completion pursuant to 13-1-203(5)(b).

(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. However, the individual may not be paid for attendance unless the individual is appointed as an election judge.

(4) Each election judge completing a training session under this section must be given a certificate of completion. An individual may not serve as an election judge without a current certificate. However, this requirement does not apply to individuals filling vacancies in emergencies.

(5) A certificate of completion is current if the certificate is obtained before the primary election in an even-numbered year.

(6) Notice of the place and time of instruction must be given by the election administrator to the presiding officers of the political parties in the county."

Section 9. Section 13-10-404, MCA, is amended to read:

"13-10-404. Placement of candidate on primary ballot – methods of qualification. Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has submitted a declaration for nomination that is signed by the candidate or an authorized ~~election campaign~~ official to the secretary of state pursuant to 13-10-201(2) and has been nominated on petitions with the verified signatures of at least 500 qualified electors. The secretary of state shall prescribe the form and content of the petition.

(2) The individual has submitted a declaration for nomination to the secretary of state pursuant to 13-10-201, and the secretary of state has determined, by the time that declarations for nomination are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq.”

Section 10. Section 13-10-602, MCA, is amended to read:

“13-10-602. Use of party name. (1) A political party and its regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party name. A candidate for office may not use any word of the name of any other political party or organization other than that by which the candidate is nominated *in a manner that indicates or implies the individual is a candidate of the nonnominating party.*

(2) An independent or nonpartisan candidate may not use any word of the name of any existing political party or organization in the candidacy *in a manner that indicates or implies that the individual is a candidate of that party or organization.*”

Section 11. Section 13-13-114, MCA, is amended to read:

“13-13-114. Voter identification and marking precinct register book before elector votes – provisional voting. (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector’s name. If the elector does not present photo identification, including but not limited to a valid driver’s license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector’s name and current address.

(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter’s identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a ~~transfer form~~ or new registration form to correct the elector’s voter registration information, and vote.

(d) An election judge shall write ~~“transfer form”~~ or “registration form” beside the name of any elector submitting a form.

(2) If the information presented under subsection (1) is insufficient to verify the elector’s identity and eligibility to vote or if the elector’s name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

(3) If the elector fails or refuses to sign the elector’s name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601.”

Section 12. Section 13-13-213, MCA, is amended to read:

“13-13-213. Transmission of application to election administrator – delivery of ballot. (1) All absentee ballot application forms must be addressed to the appropriate county election office.

(2) Except as provided in subsection (4), the elector may mail the signed application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to

13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature on the application with the applicant's signature on the registration *card form* or the agent's signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration *card form* or the agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If no signature is provided or the election administrator is not convinced that the individual signing the application is the same person whose name appears on the registration *card form* or agent designation form, the election administrator shall notify the elector as provided in 13-13-245.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the absentee election board or an authorized election official. Upon receipt of the application, the absentee election board or authorized election official shall examine the signatures on the application and a copy of the voting registration *card form* or agent designation form to be provided by the election administrator. If the absentee election board or an authorized election official believes that the applicant is the same person as the one whose name appears on the registration *card form* or agent designation form, the absentee election board or authorized election official shall provide a ballot to the elector when the ballot is available pursuant to 13-13-205."

Section 13. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot signature envelopes – deposit of absentee and unvoted ballots – rulemaking. (1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration *card form* with the signature on the signature envelope.

(b) If the elector is legally registered and the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration *card form*, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) If the elector is provisionally registered and the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration *card form*, the election administrator or an election judge shall open the outer signature envelope and determine whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

(3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes. If an unvoted party ballot is not received, the election administrator

shall process the voted party ballot as if the unvoted party ballot had been received.

(4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

(5) If the signature on the absentee ballot signature envelope does not match the signature on the absentee ballot request form or on the elector's voter registration *card form* or if there is no signature on the absentee ballot signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

(6) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

(7) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs on election day.

(8) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(9) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

Section 14. Section 13-13-245, MCA, is amended to read:

"13-13-245. Notice to elector – opportunity to resolve questions.

(1) As soon as possible after receipt of an elector's absentee ballot application or signature envelope, the election administrator shall give notice to the elector by the most expedient method available if the election administrator determines that:

- (a) the elector's ballot is to be handled as a provisional ballot;
- (b) the validity of the ballot is in question; or
- (c) the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241.

(2) The election administrator shall inform the elector that, prior to 8 p.m. on election day, the elector may:

(a) by mail, facsimile, electronic means, or in person, resolve the issue that resulted in the ballot being handled as a provisional ballot, confirm the validity of the ballot, or verify the elector's or agent's signature or provide a signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration *card form* containing the elector's current signature, or by providing a new agent designation form; or

(b) if necessary, request and receive a replacement ballot pursuant to 13-13-204.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107.

(4) (a) If a ballot is returned as undeliverable, the election administrator shall investigate the reason for the return.

(b) An elector must be provided with:

(i) the elector's undeliverable ballot upon notification by the elector of the elector's correct mailing address; or

(ii) a replacement ballot if a request has been made pursuant to 13-13-204."

Section 15. Section 13-15-105, MCA, is amended to read:

"13-15-105. Notices relating to absentee ballot counting board. (1) ~~Whenever an absentee ballot counting board is appointed under 13-15-112, the election administrator shall:~~

~~(a) publish in the contracted newspaper of the county as provided in 18-7-411 a notice indicating the method that will be used for counting absentee ballots; and~~

~~(b) post in a conspicuous location at the office of the election administrator, by 5 p.m. of the day before an election, a notice that indicates the place and time that the counting board for absentee ballots will meet on election day. Not more than 10 days or less than 2 days before an election, the election administrator shall broadcast on radio or television, as provided in 2-3-105 through 2-3-107, or publish in a newspaper of general circulation in the county a notice indicating the method that will be used for counting absentee ballots and the place and time that the absentee ballots will be counted on election day.~~

(2) If the count will begin while the polls are open, the notice required under subsection (1) must inform the public that any person observing the procedures of the ~~counting board~~ count must be sequestered with the board until the polls are closed and is required to take the oath provided in 13-15-207(4)."

Section 16. Section 13-15-107, MCA, is amended to read:

"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.

(2) (a) If a legally registered individual casts a provisional ballot because the individual failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the signature of the individual or the individual's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the individual's voter registration card *form* or the agent's designation form.

(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection (5).

(c) If the signatures do not match and the individual or the individual's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

(3) A provisional ballot must be counted if the election administrator verifies the individual's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the individual's identity or eligibility under the rules, the individual's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the individual is of unsound mind or serving a felony sentence in a penal institution, the individual's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the individual is of unsound mind or that the individual has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(4) The election administrator shall provide an individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

(5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the individual's voter information is:

- (a) verified before 5 p.m. on the day after the election; or
- (b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

Section 17. Section 13-15-205, MCA, is amended to read:

"13-15-205. Items to be delivered to election administrator by election judges – disposition of other items. (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely fastened:

- (a) the precinct register;
- (b) the list of individuals challenged;
- (c) the pollbook;
- (d) both of the tally sheets.

(2) The election judges shall enclose in a separate container, securely sealed, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate container, securely sealed, all ballots voted, including those not counted or allowed, and detached stubs from all counted or rejected absentee ballots. This envelope must be endorsed on the outside "ballots voted". At the primary election the unvoted party ballots must be enclosed in a separate container, securely sealed, and marked on the outside "unvoted ballots".

(4) Each election judge shall ~~write~~ *sign* the judge's name across all seals.

(5) The return form provided for in 13-15-101 must be returned with the items provided for in this section but may not be sealed in any of the containers.

(6) The containers required by this section must be delivered to the election administrator by the chief election judge or another judge appointed by the chief judge in the manner ordered by the election administrator.

(7) The election administrator shall instruct the chief election judge in writing on the proper disposition of all other election materials and supplies."

Section 18. Section 13-19-303, MCA, is amended to read:

"13-19-303. Voting by elector when absent from place of residence during conduct of election. (1) A qualified elector who will be absent from the county during the time the election is being conducted may:

(a) vote in person in the election administrator's office as soon as ballots are available and until noon the day before the ballots are scheduled to be mailed; or

(b) make a written request, signed by the applicant and addressed to the election administrator, that the ballot be mailed to an address other than the address that appears on the registration ~~card~~ *form*. Written requests must be accepted until noon the day before the ballots are scheduled to be mailed.

(2) (a) Ballots mailed to electors on the active list and provisionally registered list pursuant to this section must be mailed the same day that all other ballots are mailed, except that a ballot requested pursuant to Title 13, chapter 21, may be sent to the elector as soon as the ballot is available.

(b) A ballot may be provided pursuant to this section until noon on the day before election day if, after the ballots are mailed to active and provisionally registered electors:

(i) an inactive elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual registers under the late registration option provided for in 13-2-304 and receives a ballot in person."

Section 19. Section 13-19-304, MCA, is amended to read:

"13-19-304. Voting by nonregistered electors. (1) For any election being conducted under this chapter by a political subdivision that allows individuals to vote who are not registered electors, the individual may vote by appearing in person at the election administrator's office or by providing materials by mail, facsimile, or electronic means and demonstrating that the individual possesses the qualifications required for voting.

(2) An individual complying with subsection (1) before official ballots are available may provide a *card form* to the election administrator containing the signature of the individual or the individual's agent designated pursuant to 13-1-116 and the address to which the ballot is to be mailed. The signature provided must be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before 8 p.m. on election day must be permitted to vote at that time."

Section 20. Section 13-21-104, MCA, is amended to read:

"13-21-104. Adoption of rules on electronic registration and voting – acceptance of funds. (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a ~~United States elector~~ *covered voter* as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, subject to 13-2-304, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote; and

(e) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(e) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

Section 21. Section 13-21-206, MCA, is amended to read:

"13-21-206. Counting of federal write-in absentee ballots. (1) A federal write-in absentee ballot received by an election administrator may be counted only if:

(a) the elector's voter registration and identification information is sufficient to determine that the elector is eligible to vote in the election;

~~(b) the ballot is not received before regular absentee ballots have been printed pursuant to 13-13-205;~~

(c)(b) the election administrator has not received a regular absentee ballot from the elector by 8 p.m. on election day; and

(d)(c) the ballot is sent by 8 p.m. on election day and is received by 3 p.m. on the Monday following the election.

(2) Federal write-in absentee ballots received before the close of the polls on election day may not be counted until the polls have closed.”

Section 22. Section 13-27-103, MCA, is amended to read:

“13-27-103. Sufficiency of signature. A signature may not be counted unless the elector has signed in substantially the same manner as on the voter ~~registry card~~ *registration form*. If the elector is registered with a first and middle name, the use of an initial instead of either the first or middle name, but not both names, need not disqualify the signature. The signature may be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the ~~registry card~~ *registration form* as to provide reasonable certainty of its authenticity.”

Section 23. Section 13-27-204, MCA, is amended to read:

“13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO. _____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters signing this petition is _____, this initiative will appear on the next general election ballot. If a majority of voters vote for this initiative at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following initiative on the _____, 20__, general election ballot:

(Title of initiative written pursuant to 13-27-312)

(Statement of purpose and implication written pursuant to 13-27-312) (Yes and no statements written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the initiative, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the initiative on the ballot and does not necessarily mean the signer agrees with the initiative.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration *card form* or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration *card form* may not be used as the only means to disqualify the signature of that petition signer.”

Section 24. Section 13-27-205, MCA, is amended to read:

“13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO.____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this referendum at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312)

(Statement of purpose and implication written pursuant to 13-27-312) (Yes and no statements written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the referendum, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the referendum on the ballot and does not necessarily mean the signer agrees with the referendum.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration *card form* or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, legislative representative district number, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration *card form* may not be used as the only means to disqualify the signature of that petition signer.”

Section 25. Section 13-27-206, MCA, is amended to read:

“13-27-206. Petition for initiative for constitutional convention. (1) The following is substantially the form for a petition to direct the secretary of state to submit to the qualified voters the question of whether there will be a constitutional convention:

PETITION TO PLACE
INITIATIVE NO.____, CALLING FOR
A CONSTITUTIONAL CONVENTION, ON
THE ELECTION BALLOT

(a) If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters signing this petition is ____, the question of whether to have a constitutional convention will appear on the next general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for a constitutional convention at its next session.

(b) We, the undersigned Montana voters, propose that the secretary of state place the question of whether to hold a constitutional convention on the _____, 20____, general election ballot:

(Title of the initiative written pursuant to 13-27-312)

(Statement of purpose and implication written pursuant to 13-27-312) (Yes and no statements written pursuant to 13-27-312)

(c) A signature on this petition is only to put the call for a constitutional convention on the ballot and does not necessarily mean the signer is in favor of calling a constitutional convention.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine or 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration *card form* or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must also contain spaces for the signature, residence address, legislative representative district number, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration *card form* may not be used as the only means to disqualify the signature of that petition signer."

Section 26. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL
AMENDMENT NO. ____ ON
THE ELECTION BALLOT

(a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of voters signing the petition is ____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the ____, 20__, general election ballot:

(Title of the proposed constitutional amendment written pursuant to 13-27-312) (Statement of purpose and implication written pursuant to 13-27-312) (Yes and no statements written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the constitutional amendment, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration *card form* or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration *card form* may not be used as the only means to disqualify the signature of that petition signer."

Section 27. Section 13-27-303, MCA, is amended to read:

"13-27-303. Verification of signatures by county official – allocating voters following reapportionment – duplicate signatures. (1) Except as required by 13-27-104, within 4 weeks after receiving the sheets or sections of a petition, the county official shall check the names of all signers to verify they are registered electors of the county. In addition, the official shall randomly select signatures on each sheet or section and compare them with the signatures of the electors as they appear in the registration records of the office. If all the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified to the secretary of state without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the signatures in the registration records of the office.

(2) For the purpose of allocating the signatures of voters among the several legislative representative districts of the state as required to certify a petition for a referendum or a call of a constitutional convention under the provisions of this chapter following the filing of a districting and apportionment plan under 5-1-111 and before the first gubernatorial election following the filing of the plan, the new districts must be used with the number of signatures needed for each legislative representative district being the total votes cast for governor in the last gubernatorial election divided by the number of legislative representative districts.

(3) Upon discovery of fraudulent signatures or duplicate signatures of an elector on any one issue, the election administrator may submit the name of the elector or the *petition circulator signature gatherer*, or both, to the county attorney to be investigated under the provisions of 13-27-106 and 13-35-207."

Section 28. Section 13-27-304, MCA, is amended to read:

"13-27-304. County official to forward verified sheets. The county official verifying the number of registered electors signing the petition shall forward it to the secretary of state by certified mail with a certificate in substantially the following form attached:

To the Honorable _____, Secretary of State of the state of Montana:
I, _____, _____ (title) of the County of _____, certify that I have examined the attached (~~section containing _____ sheets~~) or (~~_____ sheets~~) *sheets* of the petition for (referendum, initiative, constitutional convention, or constitutional amendment) No. ____ in the manner prescribed by law; and I believe that ____ (number) signatures in (Legislative Representative District No. ____ or the County of ____) (repeat for each district or county included in sheet or section) are valid; and I further certify that the affidavit of the *circulator signature gatherer* of the (~~sheet~~) (~~section~~) of the petition is attached and the ~~post-office address, residence address, or telephone number~~ is completed for each valid signature.

Signed: _____ (Date) _____ (Signature)

Seal _____ (Title)"

Section 29. Section 13-27-308, MCA, is amended to read:

“13-27-308. Certification of petition to governor. When sheets or sections of a petition for referendum, initiative, constitutional convention, or constitutional amendment containing a sufficient number of *verified* signatures ~~have~~ *has* been filed with the secretary of state within the time required by the constitution or by law, the secretary of state shall immediately certify to the governor that the completed petition ~~has been officially filed~~ *qualifies for the ballot.*”

Section 30. Section 13-27-311, MCA, is amended to read:

“13-27-311. Publication of proposed constitutional amendments.

(1) If a constitutional amendment proposed by initiative is submitted to the people, the secretary of state shall have the proposed amendment published in full twice each month for 2 months prior to the election at which it is to be voted upon by the people in not less than one newspaper of general circulation in each county.

(2) (a) For a proposed constitutional amendment referred to the voters by the legislature, the secretary of state may arrange for newspaper publication or radio or television broadcast of the amendment, in each county.

(b) The ballot statements reviewed or prepared by the attorney general for the amendment, as described in 13-27-312 or 13-27-315, are sufficient for the publication allowed by this subsection (2) and should be made at least twice each month for 2 months prior to the election.

(c) The ~~election administrator~~ *secretary of state* shall select the method of notification that the ~~election administrator~~ *secretary of state* believes is best suited to reach the largest number of potential electors.”

Section 31. Section 13-27-503, MCA, is amended to read:

“13-27-503. Determination of result of election. The votes on ballot issues must be counted, canvassed, and ~~returned by the regular boards of judges, clerks, and officers~~ *certified* in the same manner as votes for candidates are counted, canvassed, and ~~returned~~ *certified*. The abstract of votes on ballot issues must be prepared and returned to the secretary of state in the manner provided by 13-15-501 for abstract of votes for state officers. ~~The~~ *At the same time as the votes for state officers are canvassed, the* board of state canvassers shall proceed ~~within 20 days after the election at which ballot issues are voted upon and, at the same time as the votes for state officers are canvassed, to~~ canvass the votes given for each ballot issue. The secretary of state, as secretary of the board of state canvassers, shall prepare and file in the secretary of state's office a statement of the canvass, giving the number and title of each issue, the whole number of votes cast in the state for and against each ballot issue, and the effective date of each ballot issue approved by a majority of those voting on the issue. The secretary of state shall transmit a certified copy of the statement of the canvass to the governor.”

Section 32. Section 13-35-207, MCA, is amended to read:

“13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

(1) falsely represents the person's name or other information required upon the person's ~~registry card~~ *voter registration form* and causes registration with the ~~card~~ *form*;

(2) signs a ~~registry card~~ *voter registration form* knowingly witnessing any false or misleading statement;

(3) knowingly causes a false statement, certificate, or return of any kind to be signed;

(4) falsely makes a declaration or certificate of nomination;

(5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;

(6) forges or falsely makes the official endorsement of a ballot;

(7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;

(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

(9) signs a name other than the person's own to a petition, signs more than once for the same ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 33. Repealer. The following sections of the Montana Code Annotated are repealed:

13-1-122. Ballot form and content.

13-2-601. Special addendum to precinct register.

13-2-602. Joinder of parties in proceedings to compel entry of name in register.

13-13-230. Authorization to increase county mill levy.

13-15-503. Notification if returns not received from counties.

Section 34. Effective date. [This act] is effective January 1, 2018.

Approved May 9, 2017

CHAPTER NO. 369

[HB 283]

AN ACT REQUIRING STATE AGENCIES TO PROVIDE GRANT INFORMATION TO THE LEGISLATIVE FINANCE COMMITTEE; SPECIFYING REPORTING REQUIREMENTS; REQUIRING THE LEGISLATIVE FINANCE COMMITTEE TO POST AN INTERNET LINK TO THE GRANT INFORMATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Grant information to be provided to legislative finance committee – internet link required. (1) Each state agency shall provide an annual report pursuant to subsection (2) to the legislative finance committee by October 1 of each year.

(2) The report must be provided electronically as a spreadsheet and must include the following information about each grant awarded by the state agency during the previous fiscal year:

(a) the name of the grantee;

(b) the address of the grantee;

(c) the amount of the grant;

(d) the award date of the grant;

(e) the purpose of the grant; and

(f) the grant period.

(3) The legislative finance committee shall post an internet link to the reports on its website under the meeting materials for the committee meeting that next follows the deadline established in subsection (1).

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 12, part 2, and the provisions of Title 5, chapter 12, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2017

CHAPTER NO. 370

[HB 372]

AN ACT REVISING THE DEFINITION OF “EMPLOYEE” FOR THE PURPOSES OF STATE LEAVE TIME TO EXCLUDE COMMUNITY COLLEGE INSTRUCTIONAL OR SCIENTIFIC STAFF; AMENDING SECTIONS 2-18-601 AND 2-18-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-601, MCA, is amended to read:

“2-18-601. Definitions. For the purpose of this part the following definitions apply:

(1) (a) “Agency” means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state.

(b) The term does not mean the state compensation insurance fund.

(2) “Break in service” means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment.

(3) “Common association” means an association of employees established pursuant to 2-18-1310 for the purposes of employer and employee participation in the plan.

(4) “Continuous employment” means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(5) “Contracting employer” means an employer who, pursuant to 2-18-1310, has contracted with the department of administration to participate in the plan.

(6) “Employee” means any person employed by an agency except elected state, county, and city officials, schoolteachers, *members of the instructional or scientific staff of a community college*, persons contracted as independent contractors or hired under personal services contracts, and student interns.

(7) “Full-time employee” means an employee who normally works 40 hours a week.

(8) “Holiday” means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-216 or 20-1-305, except Sundays.

(9) “Member” means an employee who belongs to a voluntary employees’ beneficiary association established under 2-18-1310.

(10) “Part-time employee” means an employee who normally works less than 40 hours a week.

(11) “Permanent employee” means a permanent employee as defined in 2-18-101.

(12) “Plan” means the employee welfare benefit plan established under Internal Revenue Code section 501(c)(9) pursuant to 2-18-1304.

(13) “Seasonal employee” means a seasonal employee as defined in 2-18-101.

(14) “Short-term worker” means:

(a) for the executive and judicial branches, a short-term worker as defined in 2-18-101; or

(b) for the legislative branch, an individual who:

(i) is hired by a legislative agency for an hourly wage established by the agency;

(ii) may not work for the agency for more than 6 months in a continuous 12-month period;

(iii) is not eligible for permanent status;

(iv) may not be hired into another position by the agency without a competitive selection process; and

(v) is not eligible to earn the leave and holiday benefits provided in this part or the group insurance benefits provided in part 7.

(15) "Sick leave" means a leave of absence with pay for:

(a) a sickness suffered by an employee or a member of the employee's immediate family; or

(b) the time that an employee is unable to perform job duties because of:

(i) a physical or mental illness, injury, or disability;

(ii) maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee's child;

(iii) parental leave for a permanent employee as provided in 2-18-606;

(iv) quarantine resulting from exposure to a contagious disease;

(v) examination or treatment by a licensed health care provider;

(vi) short-term attendance, in an agency's discretion, to care for a relative or household member not covered by subsection (15)(a) until other care can reasonably be obtained;

(vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or

(viii) death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

(16) "Student intern" means a student intern as defined in 2-18-101.

(17) "Temporary employee" means a temporary employee as defined in 2-18-101.

(18) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service.

(19) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer."

Section 2. Section 2-18-711, MCA, is amended to read:

"2-18-711. Cooperative purchasing of employee benefit services and insurance products – procedures. (1) To provide employee group benefits, an agency, as defined in 2-18-601, and the state compensation insurance fund may participate with other agencies, nonprofit organizations, or business entities and in voluntary disability insurance purchasing pools provided for under 33-22-1815 if the agency or the state fund determines that cooperative purchasing is in the agency's or the state fund's best interest.

(2) Cooperative purchases under this section may be conducted according to purchasing procedures developed by the participating parties if, for contracts valued at \$20,000 a year or more, purchasing procedures, at a minimum, include:

(a) public notice in three major Montana newspapers of requirements for submitting bids or offers; and

(b) consideration of all submitted bids or offers.

(3) For purposes of this section, "employee" also means a schoolteacher or a member of the instructional or scientific staff of a community college."

Section 3. Effective date -- applicability. [This act] is effective on passage and approval and applies to contracts entered into and signed on or after [the effective date of this act].

Approved May 9, 2017

CHAPTER NO. 371

[HB 510]

AN ACT CLARIFYING WHEN CERTAIN SUBDIVISIONS THAT ARE EXEMPT FROM LOCAL SUBDIVISION REVIEW MAY BE EXEMPT FROM WATER AND SANITATION REVIEW; ALLOWING FOR EXEMPTIONS IF STORM WATER AND MUNICIPAL FACILITIES INFORMATION IS PROVIDED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR ITS DESIGNEE; AMENDING SECTION 76-4-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-4-127, MCA, is amended to read:

“76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) *To Except as provided in subsection (3), to* qualify for the exemption from review set out in 76-4-125(2)(d), the governing body, as defined in 76-3-103, shall, prior to final plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary or, *if subsection (3) applies, a copy of the certificate of survey map or amended plat map or a declaration and floor plan, including the layout of each unit proposed to be recorded, under Title 70, chapter 23, part 3;*

(c) the number of proposed parcels in the subdivision *or division under subsection (3);*

(d) a copy of any applicable zoning ordinances in effect;

(e) how construction of the sewage disposal and water supply systems or extensions will be financed;

(f) certification that the subdivision *or division under subsection (3)* is within an area covered by a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;

(g) the relative location of the subdivision *or division under subsection (3)* to the city or town;

(h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or, *unless subsection (3) applies, will be provided within the time provided in 76-3-507; If subsection (3) applies, the requirements of 76-3-507 do not apply.*

(i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and

(j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage.

(3) *A division of land that is exempt from the Montana Subdivision and Platting Act review under 76-3-203 or 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), or (1)(f) qualifies for an exemption under 76-4-125(2)(d) if the governing body, as defined in 76-3-103, sends a notice of certification under subsection (2) to the reviewing authority stating that adequate storm water drainage and adequate municipal facilities will be provided for the division.*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2017

CHAPTER NO. 372

[HB 405]

AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAWS; PROVIDING FOR FILLING A VACANCY ON A COUNTY ADMINISTRATIVE BOARD AND A SPECIAL DISTRICT BOARD; REVISING THE DATE FOR FILLING A VACANCY IN A COUNTY OFFICE; INCREASING THE AMOUNT OF A CONTRACT FOR WHICH THE STATE RESIDENT BIDDING PREFERENCE WOULD APPLY; PROVIDING FOR PROTEST OF A PROPOSED DISSOLUTION OF A SPECIAL DISTRICT; CLARIFYING THAT THE BOARD OF COUNTY COMMISSIONERS IS THE ENTITY TO APPOINT A RURAL FIRE DISTRICT TRUSTEE IF THERE IS NOT A CANDIDATE FOR A TRUSTEE OFFICE; CLARIFYING THAT THE BOARD OF COUNTY COMMISSIONERS IS THE ENTITY TO RECEIVE NOTICE OF A CANCELLATION OF AN ELECTION AND TO FILL A POSITION UPON CANCELLATION OF AN ELECTION; CLARIFYING REQUIREMENTS FOR COUNTY LEGAL ADVERTISING AND COUNTY PRINTING CONTRACTS; AMENDING SECTIONS 7-1-201, 7-4-2206, 7-5-2309, 7-11-1021, 7-11-1029, 7-13-2233, 7-33-2106, 13-1-402, 13-1-403, 13-1-501, 13-1-502, 15-17-122, 18-7-411, 18-7-412, AND 18-7-413, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-1-201, MCA, is amended to read:

“7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, Title 7, chapter 11, part 10, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

(a) the number of administrative board, district board, or commission members;

(b) the terms of the members;

(c) whether members are entitled to mileage, per diem, expenses, and salary; and

(d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, a district board, or a commission may be assigned responsibility for a department or service district.

(b) An administrative board, a district board, or a commission may:

(i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law; and

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, a district board, or a commission must grant the administrative board, district board, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, a district board, or a commission may employ personnel to assist in its functions.

(3) (a) An administrative board, a district board, or a commission may be made elective.

(b) If an administrative board, a district board, or a commission is made elective, the election must be conducted as provided in Title 13, chapter 1, part 5.

(c) *A vacancy created pursuant to 2-16-501 occurring during a term must be filled for the unexpired term by the county commissioners. The member appointed to fill the vacancy holds the office until a successor has been elected and qualified.*

(4) An administrative board, a district board, or a commission may not sue or be sued independently of the local government unless authorized by state law.

(5) (a) If administrative board, district board, or commission members are to be appointed, the members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy. *A vacancy created pursuant to 2-16-501 occurring during a term must be filled for the unexpired term by the county commissioners. The member appointed to fill the vacancy holds the office until a successor has been appointed and qualified.*

(b) The county commissioners shall maintain a register of appointments, including:

(i) the name of the administrative board, district board, or commission;

(ii) the date of appointment and confirmation, if any is required;

(iii) the length of term;

(iv) the name and term of the presiding officer and other officers of each administrative board, district board, or commission; and

(v) the date, time, and place of regularly scheduled meetings.

(c) Terms for members of elected or appointed boards or commissions may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(6) An administrative board, a district board, or a commission must consist of a minimum of 3 members and must have an odd number of members.

(7) The resolution creating an administrative board, a district board, or a commission may provide for voting or nonvoting ex officio members.

(8) Two or more local governments may provide for a joint administrative board, district board, or commission to be established by interlocal agreement.

(9) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting unless the resolution creating the board, district, or commission specifies otherwise.

(10) An administrative board, a district board, or a commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(11) An administrative board, a district board, or a commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(12) Unless otherwise provided by law, a person must be a *citizen of the United States and a resident* of the county to be eligible for appointment to an administrative board, a district board, or a commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(13) A person may be removed from an administrative board, a district board, or a commission for cause by the county commissioners or as provided by resolution.

(14) A resolution creating an administrative board, a district board, or a commission must contain, if applicable, budgeting and accounting requirements for which the administrative board, district board, or commission is accountable to the county commissioners.

(15) If a municipality creates a special district in accordance with Title 7, chapter 11, part 10, the governing body of the municipality shall comply with this section if the governing body chooses to have the special district governed by a separate board."

Section 2. Section 7-4-2206, MCA, is amended to read:

"7-4-2206. Vacancies – appointment of interim officer. (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in 2-16-501.

(2) (a) Vacancies in all county offices, except that of county commissioner, must be filled by appointment by the board of county commissioners. Except as provided in subsections (3) and (4), the appointee holds the office, if elective, until the person elected at the next general election is certified pursuant to 13-15-406. If the office is not elective, the appointee serves at the pleasure of the commissioners.

(b) The commissioners may appoint a person to serve as an interim officer for the time period between occurrence of the vacancy and the date on which the vacancy is filled pursuant to this section. A person appointed as an interim officer must have the qualifications required under this chapter for the office to which the person has been appointed. Upon appointment, the interim officer is authorized to perform the duties assigned by law to that office.

(3) Whenever a vacancy occurs prior to August 1 before the general election held during the second year of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs prior to March 1 before the primary election during the second year of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year term.

(b) Whenever the vacancy occurs on or after March 1 before the primary election, any political party desiring to enter a candidate in a partisan election in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the county election administrator of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed with the county election administrator prior to August 1 before the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs ~~on or~~ after July 31 before the general election held during the second year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of the term.”

Section 3. Section 7-5-2309, MCA, is amended to read:

“7-5-2309. Optional bidding preference for county resident. (1) If there are no out-of-state bidders for a contract subject to competitive bid under this part, the contract may be awarded to the lowest and best responsible bidder that is a county resident and that makes a bid that is no more than \$500 or 3% higher, whichever is less, than the bid of the lowest responsible bidder that is not a county resident.

(2) If there is one or more out-of-state bidders for a contract for construction, repair, or maintenance of a building, road, or bridge that is in excess of \$50,000 \$80,000 and that is subject to competitive bid under this part, the state resident bid preference provided in 18-1-102(1)(a) applies.

(3) For the purposes of this section, “county resident” means a person, corporation, business, or other entity whose principal business location is within the county.”

Section 4. Section 7-11-1021, MCA, is amended to read:

“7-11-1021. Governance – powers and duties. (1) A special district must be administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body.

(2) (a) If the special district is governed by a separate board, the board must be established in accordance with Title 7, chapter 1, part 2, and specific powers and duties granted to the board and those specifically withheld must be stated.

(b) A vacancy created pursuant to 2-16-501 occurring during a term must be filled for the unexpired term by the governing body. The member appointed to fill the vacancy holds the office until a successor has been appointed and qualified.

~~(b)~~(c) The governing body may grant additional powers to the board. This includes the authorization to use privately contracted legal counsel or the attorney of the governing body. If privately contracted counsel is used, notice must be provided to the attorney of the governing body.

~~(c)~~(d) The governing body has ultimate authority under this subsection (2).

(3) The entity chosen to administer the special district, as provided in subsection (1), may:

(a) implement a program and order improvements for the special district designed to fulfill the purposes of the special district;

(b) employ personnel directly related to the specific improvement or program;

(c) purchase, rent, or lease equipment, personal property, and material necessary to develop and implement an effective program;

(d) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of federal, state, or local government, in order to develop and implement an effective program;

(e) receive gifts, grants, or donations for the purpose of advancing the program and, by gift, deed, devise, or purchase, acquire land, facilities, buildings, and material necessary to implement the purposes of the special district;

(f) construct, improve, and maintain new or existing facilities and buildings necessary to accomplish the purposes of the special district;

(g) provide grants to private, nonprofit entities as part of implementing an effective program;

(h) adopt a seal and alter it at the entity’s pleasure;

- (i) administer local ordinances as appropriate;
- (j) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and
- (k) borrow money by the issuance of:
 - (i) general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or
 - (ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.
- (4) If the special district is administered by a separate board, the board shall submit annual budget and work plans to the governing body for review and approval.
- (5) The right to exercise eminent domain pursuant to 70-30-102 is limited to cemetery districts."

Section 5. Section 7-11-1029, MCA, is amended to read:

"7-11-1029. Dissolution of special district. (1) A special district may be dissolved if it is considered to be in the best interest of a local government or the inhabitants of the local government or if the purpose for creating the special district has been fulfilled and the special district is not needed in perpetuity.

(2) The governing body may pass a resolution of intention to dissolve a special district upon its own request or upon request of the separate board administering the special district.

(3) After the passage of the resolution provided for in subsection (2), the clerk of the local government that established the special district shall publish a notice, as provided in 7-1-2121 or 7-1-4127, of the intention to dissolve the district.

(4) (a) The notice must specify the boundaries of the special district to be dissolved, the date of the passage of the resolution of intention to dissolve, the date set for the passage of the resolution of dissolution, and that the resolution will be passed unless the clerk of the local government receives written protest in advance from:

~~(a) 40% of registered voters or 40% of the owners of real property in the district; or~~

~~(b) 40% of registered voters or 40% of the property taxpayers in the district if the district program or improvements have been financed through a mill levy; the owners of property in the district who are assessed for:~~

~~(i) 50% or more of the cost of the program or improvements; or~~
~~(ii) more than 10% but less than 50% of the cost of the program or improvements.~~

~~(b) If the governing body receives the protest as provided in subsection (4)(a)(i), further dissolution proceedings may not be taken by the governing body for at least 12 months.~~

~~(c) If the governing body receives the protest as provided in subsection (4)(a)(ii), the governing body shall order a referendum on the dissolution in accordance with 7-11-1011.~~

~~(d) In determining whether or not sufficient protests have been filed, property owned by a governmental entity must be considered the same as any other property in the district.~~

~~(e) The decision of the governing body is final and conclusive.~~

(5) If the special district is dissolved, the clerk of the local government shall immediately send written notice to:

(a) the secretary of state; and

(b) the department of revenue, providing the same information required in 7-11-1014 when a district is created. The department of revenue and the state library shall respond to the dissolution in the same manner as they respond to the creation of a district, as described in 7-11-1014.

(6) The dissolution of a special district may not relieve the property owners from the assessment and payment of a sufficient amount to liquidate all charges existing against the special district prior to the date of dissolution.

(7) Any assets remaining after all debts and obligations of the special district have been paid, discharged, or irrevocably settled must be:

(a) deposited in the general fund of the local government;

(b) in the case of multiple local governments, divided in accordance with their interlocal agreement and deposited in the general fund of each local government; or

(c) transferred to a new special district that has been created to provide substantially the same service as provided by the dissolved special district.

(8) If the remaining assets are derived from private grants or gifts that restrict the use of those funds, the funds must be returned to the grantor or donor.”

Section 6. Section 7-13-2233, MCA, is amended to read:

“7-13-2233. Qualifications of directors. ~~Any director so elected or appointed shall be an owner or lessee of real property within said district or a resident therein~~ (1) *To be eligible for election or appointment to a board of directors, a person must be:*

(a) *registered to vote as required by law;*

(b) *18 years of age or older;*

(c) *a citizen of the United States; and*

(d) *a resident of the district or an owner of real property in the district who is a resident of the state of Montana.*

(2) *A person who is serving on a board of directors on [the effective date of this act] who does not meet the qualifications under subsection (1) may serve the remainder of the person’s term but may not be reelected or reappointed to the board. A person elected or appointed after [the effective date of this act] must meet the qualifications of subsection (1).”*

Section 7. Section 7-33-2106, MCA, is amended to read:

“7-33-2106. Details relating to board of trustees of fire district – election – qualified electors. (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees’ terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each subsequent trustee shall serve a 3-year term of office.

(d) A term of office begins on the date of the trustee’s election or appointment.

(2) Trustee elections must be conducted in accordance with Title 13, chapter 1, part 5.

(3) An appointment to fill a vacancy occurring during the term of office of a trustee must be made by the county governing body and the appointee shall hold office until the next trustee election.

(4) An elector, as defined in 13-1-101, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(5) Any person eligible to vote in the election may file a declaration of candidacy for the office of trustee. The declaration must be filed with the election administrator in the county conducting the election pursuant to 13-1-505 within the time period specified in 13-1-502.

(6) If there is not a candidate for one or more trustee offices, the ~~county governing body~~ *board of county commissioners* shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(7) The trustees shall organize by choosing presiding officers and appointing one member to act as secretary."

Section 8. Section 13-1-402, MCA, is amended to read:

"13-1-402. Purpose – definition. (1) The purpose of this part is to consolidate, simplify, and standardize, to the extent feasible, dates and deadlines for local government elections and to provide more consistency for election administrators and voters.

(2) For the purposes of this part, "local government" means a ~~local government entity, other than a special purpose district or a school district,~~ *county, a consolidated government, or an incorporated city or town* that is conducting an election that may be held on the same day as a primary election but is not a primary election, such as an election on a question or an election for officers that does not involve a primary."

Section 9. Section 13-1-403, MCA, is amended to read:

"13-1-403. Election deadlines for candidate filing, write-in candidacy, and withdrawal – election cancellation – election by acclamation. (1) Consistent with the candidate filing deadline in 13-10-201(7) for primary elections and except as provided in subsection (2) for a write-in candidate, the candidate filing deadline for election to a local government office is no sooner than 145 days and no later than 85 days before the election.

(2) Consistent with the deadline for write-in candidates under 13-10-211 for primary elections, a declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the 10th day before the date on which the ballot must be available for absentee or mail ballot voting under 13-1-404, as applicable.

(3) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(4) Except as provided in subsection (5)(b) and unless otherwise specifically provided by law, if the number of candidates filing for election is equal to or less than the number of positions to be filled, the election administrator shall notify the governing body *of the local government* in writing that the election is not necessary and the governing body may by resolution cancel the election.

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body *of the local government* shall declare the candidate elected to the position by acclamation.

(b) If an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body *of the local government* shall fill the position by appointment. The term of an appointed member must be the same as if the member were elected."

Section 10. Section 13-1-501, MCA, is amended to read:

"13-1-501. Purpose – definition. (1) The purpose of this part is to consolidate, simplify, and standardize, to the extent feasible, dates and deadlines for special purpose district elections and to provide more consistency for election administrators and voters.

(2) Nothing in this part may be interpreted to require the secretary of state to oversee special purpose district elections.

(3) *For the purposes of this part, "local government" has the meaning provided in 13-1-402."*

Section 11. Section 13-1-502, MCA, is amended to read:

"13-1-502. Deadlines for candidate filing, write-in candidacy, and withdrawal – election cancellation – election by acclamation.

(1) Consistent with the candidate filing deadline in 13-10-201(7) for primary elections and except as provided in subsection (3) for a write-in candidate, the candidate filing deadline for election to a special purpose district office is no sooner than 145 days and no later than 85 days before the election.

(2) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may not withdraw after the candidate filing deadline provided in subsection (1).

(3) Consistent with the deadline for write-in candidates under 13-10-211 for primary elections, a declaration of intent to be a write-in candidate must be filed with the election administrator by 5 p.m. on the 10th day before the date on which the ballot must be available for absentee or mail ballot voting under 13-1-503, as applicable.

(4) (a) ~~If~~ *Except as provided in subsection (4)(b), if* by the write-in candidate deadline in subsection (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing body of the local government in writing of the cancellation. However, the governing body of the local government may by resolution require that the election be held.

(b) *For an election of conservation district supervisors held in conjunction with a federal primary or federal general election, if by the candidate filing deadline under subsection (1) the number of candidates is equal to or less than the number of positions to be filled at the election, the election administrator shall cancel the election and immediately notify the governing body of the conservation district in writing of the cancellation. However, the governing body of the conservation district may, by no later than 10 days after the candidate filing deadline, pass a resolution to require that the election be held.*

(5) (a) If an election has been canceled and there is only one candidate for a position, the governing body of the local government or, if appropriate, of the conservation district shall declare the candidate elected to the position by acclamation.

(b) Except as otherwise provided by law:

(i) if an election has been canceled and there are no regular or declared write-in candidates for a position, the governing body of the local government or, if appropriate, of the conservation district shall fill the position by appointment;

(ii) an appointed member shall serve the same term as if the member were elected."

Section 12. Section 15-17-122, MCA, is amended to read:

"15-17-122. Notice of pending tax lien sale. (1) The county treasurer shall publish or post a notice of a pending tax lien sale. The notice must include:

(a) the specific time, date, and place an interest in the property on which the taxes are delinquent will be offered for sale;

(b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the time of the tax lien sale, the lien will be offered for sale at the time and place specified in subsection (1)(a).

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list must include:

(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be ~~published once a week for 3 consecutive weeks in the newspaper designated for county printing as provided in 18-7-411. If no newspaper is published in the county, the notice must be posted by the county treasurer in three public places, given as provided in 7-1-2121.~~ The notice must be first published or posted on or before the last Monday in June.

(4) Except as provided in 15-17-211(2), the tax lien sale may not be held less than 21 days or more than 28 days from the date of first publication or first day the notice is posted.

(5) The sale must be held at the office of the county treasurer.

(6) Property on which taxes are delinquent but for which proper notification was not made may not be included in the current year's notice and tax lien sale. In the event of improper notification, the tax lien sale may be held on all property properly noticed.

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of Title 15, chapter 24, part 17."

Section 13. Section 18-7-411, MCA, is amended to read:

"18-7-411. County printing advertising – contract. (1) The county commissioners shall contract for all advertising required by law ~~and all printed forms required by the county.~~ The advertising required by law must be awarded to a newspaper that:

(a) is published in the county;

(b) has general circulation;

(c) has been published continuously at least once a week in the county for the 12 months preceding the awarding of the contract; and

(d) prior to July 1 of each year, has submitted to the clerk and recorder a sworn statement that includes:

(i) circulation for the prior 12 months;

(ii) a statement of net distribution;

(iii) itemization of the circulation that is paid and that is free; and

(iv) the method of distribution.

(2) A newsletter or other document produced or published by the local government unit is not considered a newspaper that has general circulation as provided in subsection (1).

~~(3) Contracts for printed forms and materials may be awarded on an annual basis or may be awarded for a specific printing job.~~

~~(4) (a) The county clerk and recorder shall maintain a list of willing bidders for county printing and shall notify the printing establishments on the list of any call for bids.~~

~~(b) A printing establishment must be added to the county clerk and recorder's list when the clerk and recorder receives a written request from the printing establishment.~~

~~(c) The county clerk and recorder may delete the name of any printing establishment from the list if it has not submitted a bid during the previous 365 days~~

(3) The term of a contract for county legal advertising may not exceed a period of 2 years."

Section 14. Section 18-7-412, MCA, is amended to read:

"18-7-412. Details relating to County printing contract. (1) The contract must be let to the printing establishment that in the judgment of the county commissioners is the most suitable for performing the work. The county commissioners shall require a contractor to perform the county printing contract subject to the requirements of Title 18, chapter 1, part 2.

~~(2) This part may not be construed to compel the acceptance of unsatisfactory work.~~

~~(3) The term of a contract for county printing or county legal advertising may not exceed a period of 2 years.~~

(2) Contracts for printed forms and materials may be awarded on an annual basis or may be awarded for a specific printing job. The term of a contract for county printing may not exceed a period of 2 years.

(3) (a) The county clerk and recorder shall maintain a list of willing bidders for county printing and shall notify the printing establishments on the list of any call for bids.

(b) A printing establishment must be added to the county clerk and recorder's list when the clerk and recorder receives a written request from the printing establishment.

(c) The county clerk and recorder may delete the name of any printing establishment from the list if it has not submitted a bid during the previous 365 days.

~~(4) This part may not be construed to compel the acceptance of unsatisfactory work."~~

Section 15. Section 18-7-413, MCA, is amended to read:

"18-7-413. Competitive bids required. The board of county commissioners shall call for competitive bids:

(1) from persons or firms qualified to bid on county printing; under the terms of this part; or

(2) for county legal advertising if there is more than one legally qualified newspaper in the county, under the terms of this part."

Section 16. Effective date. [This act] is effective July 1, 2017.

Approved May 9, 2017

CHAPTER NO. 373

[HB 585]

AN ACT ALLOWING THE BOARD OF INVESTMENTS TO MAKE LOANS TO AN OWNER OF A COAL-FIRED GENERATING UNIT IN MONTANA FROM THE MONTANA PERMANENT COAL TAX TRUST FUND FOR THE OPERATION AND MAINTENANCE OF A COAL-FIRED GENERATING UNIT; PROVIDING LOAN CRITERIA, FEES, REQUIREMENTS, AND LIMITATIONS; REQUIRING NOTICE AND STIPULATIONS IN THE EVENT OF BANKRUPTCY; AMENDING SECTIONS 17-6-302, 17-6-308, 17-6-309, 17-6-311, AND 17-6-317, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Montana legislature encourages the Board of Investments to act as expeditiously as possible in its consideration of potential loans to facilitate the continued operation of coal-fired generation in Montana; and

WHEREAS, low-interest loans authorized by the Board of Investments can allow for the continued operation of coal-fired generating units in Montana until a date certain, allowing the state of Montana to mitigate the impacts of the units' retirement and plan for the future.

Be it enacted by the Legislature of the State of Montana:

Section 1. Loan recipients – notice. (1) If an owner of a coal-fired generating unit receives a loan in accordance with this part, the owner shall provide the board of investments and the governor of Montana with a minimum of 90 days' notice prior to filing for bankruptcy, reorganization, or other insolvency proceeding or prior to a merger, sale, or transfer, by operation of law or otherwise.

(2) A successor to the owner, whether pursuant to a bankruptcy, reorganization, or other insolvency proceeding or pursuant to a merger, sale, or transfer, by operation of law or otherwise, shall perform and satisfy all obligations of the owner pursuant to this part in the same manner and to the same extent as the owner.

Section 2. Section 17-6-302, MCA, is amended to read:

“17-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Board” means the board of investments created in 2-15-1808.

(2) “Clean and healthful environment” means an environment that is relatively free from pollution that threatens human health, including as a minimum, compliance with federal and state environmental and health standards.

(3) “Coal-fired generating unit” means an individual unit of a coal-fired electrical generating facility located in Montana that has a generating capacity greater than or equal to 200 megawatts.

(3)(4) “Department” means the department of commerce provided for in 2-15-1801.

(4)(5) “Employee-owned enterprise” means any enterprise at least 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal occupation is as an employee, officer, or partner of the enterprise.

(5)(6) “Financial institution” includes but is not limited to a ~~state-~~state-chartered or federally chartered bank or a savings and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.

(6)(7) “Intermediary loan” means a loan provided to a local economic development organization with a revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury.

(7)(8) “Loan participation” means loans or portions of loans bought from a financial institution.

(8)(9) “Local economic development organization” means:

(a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(ii) an entity certified by the department under 90-1-116; or

(iii) an entity established by a local government; and

(b) an entity actively engaged in economic development and business assistance work in the area.

~~(9)~~(10) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana.

~~(10)~~(11) "Long-term benefit to the Montana economy" means an activity that strengthens the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenue in the future to the people of Montana, either directly or indirectly.

~~(11)~~(12) "Montana economy" means any business activities in the state of Montana, including those that continue existing jobs or create new jobs in Montana.

(13) *"Owner" means an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451 that owns a coal-fired generating unit.*

~~(12)~~(14) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund."

Section 3. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) through ~~(5)~~ (6) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the

amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall allow the board of housing to administer \$40 million of the permanent coal tax trust fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

(6) (a) *Subject to subsections (6)(b) through (6)(d), the board may make working capital loans from the permanent coal tax trust fund to an owner of a coal-fired generating unit.*

(b) *Loans may be provided in accordance with subsection (6)(a) only to finance the everyday operations and required maintenance of a coal-fired generating unit of which an owner has a shared interest.*

(c) *Loans may not be provided to operate or maintain a coal-fired generating unit beyond July 1, 2022.*

(d) *The board may charge a working capital loan application fee of up to \$500.*

(6)(7) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(7)(8) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund."

Section 4. Section 17-6-309, MCA, is amended to read:

"17-6-309. Investment preferences. (1) Subject to the provisions of subsection (2), in deciding which of several investments of equal or comparable security and return are to be made when sufficient funds are not available to fund all possible investments, the board shall give preference to the business investments that:

(a) assist employee-owned enterprises in providing new jobs or in preserving existing jobs for Montana residents or in otherwise contributing to the long-term benefit of the Montana economy, including raising the per capita income of Montana jobholders;

(b) are for locally owned enterprises that are either expanding or establishing new operations;

(c) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill ~~such~~ *the* jobs;

(d) maintain and improve a clean and healthful environment, with emphasis on energy efficiency;

(e) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products; or

(f) benefit small- and medium-sized businesses as defined in rules adopted by the board.

(2) The board may make a loan to enhance economic development and create jobs in the basic sector of the economy, as defined by the board by rule, if the loan will result in the creation of a business estimated to employ at least 15 people in Montana on a permanent, full-time basis or result in the expansion of a business estimated to employ at least an additional 15 people in Montana on a permanent, full-time basis or raise salaries, wages, and business incomes of existing employees and employers.

(3) *The board may make a working capital loan to an owner of a coal-fired generating unit if the loan will prevent the elimination of jobs and provide stability in a community impacted by the operation of a coal-fired generating unit."*

Section 5. Section 17-6-311, MCA, is amended to read:

“17-6-311. Limitation on size of investments. (1) Except as provided in subsection (2) and this subsection, an investment may not be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the permanent coal tax trust fund the total current accumulated amount of which exceeds 10% of the permanent coal tax trust fund. If an investment results in any one business enterprise or person incurring a debt in excess of 6% of the permanent coal tax trust fund, at least 30% of the debt incurred for the project or enterprise for the coal tax investment that was made to the business enterprise or person must be held by a commercial lender. This subsection does not:

(a) apply to a loan made pursuant to 17-6-317; or

(b) limit the board's authority to make loans to the capital reserve account as provided in 17-6-308(2).

(2) The total amount of loans made pursuant to 17-6-309(2) may not exceed \$80 million, the total amount of loans made pursuant to 17-6-317 may not exceed \$70 million, and a single loan may not be less than \$250,000. Except for a loan made pursuant to 17-6-317, a loan may not exceed \$16,666 for each job that is estimated to be created. In determining the size of a loan made pursuant to 17-6-309(2), the board shall consider:

(a) the estimated number of jobs to be created by the project within a 4-year period from the time that the loan is made and the impact of the jobs on the state and the community where the project will be located;

(b) the long-term effect of corporate and personal income taxes estimated to be paid by the business and its employees;

(c) the current and projected ability of the community to provide necessary infrastructure for economic and community development purposes;

(d) the amount of increased salaries, wages, and business incomes of existing jobholders and businesses; and

(e) other matters that the board considers necessary.

(3) *The total amount of loans made annually pursuant to 17-6-309(3) may not exceed \$10 million. In determining the size of a loan, the board shall consider:*

(a) the direct and indirect tax implications to the state if a coal-fired generating unit is retired prematurely;

(b) the current and projected ability of an owner to operate and maintain a coal-fired generating unit; and

(c) other matters that the board considers necessary.”

Section 6. Section 17-6-317, MCA, is amended to read:

“17-6-317. Participation by private financial institutions – rulemaking. (1) (a) The board may jointly participate with private financial institutions in making loans to a business enterprise if the loan will:

(i) result in the creation of a business estimated to employ at least 10 people in Montana on a permanent, full-time basis;

(ii) result in the expansion of a business estimated to employ at least an additional 10 people in Montana on a permanent, full-time basis; or

(iii) prevent the elimination of the jobs of at least 10 Montana residents who are permanent, full-time employees of the business.

(b) Loans under this section may be made only to:

(i) business enterprises that are producing or will produce value-added products or commodities; or

(ii) *owners of coal-fired generating units to provide for the continued operation and maintenance of a coal-fired generating unit until July 1, 2022.*

(c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under 17-6-318.

(2) A loan made pursuant to this section may not exceed 1% of the coal severance tax permanent fund and must comply with each of the following requirements:

(a) (i) The business enterprise seeking a loan must have a cash equity position equal to at least 25% of the total loan amount.

(ii) A participating private financial institution may not require the business to have an equity position greater than 50% of the total loan amount.

(iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a participating private financial institution, then the additional security or guarantees must be proportional to the amount loaned by all participants, including the board of investments.

(b) The board shall provide 75% of the total loan amount.

(c) The term of the loan may not exceed 15 years.

(d) The board shall charge interest at the following annual rate:

(i) 2% for the first 5 years if 15 or more jobs are created or retained;

(ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;

(iii) 6% for the second 5 years; and

(iv) the board's posted interest rate for the third 5 years, but not to exceed 10% a year.

(e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the board receives certification that the required number of jobs has been created or as provided in subsection (2)(e)(ii). If the board disburses loan proceeds prior to creation of the required jobs, the loan must bear interest at the board's posted rate.

(ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination of jobs, the board shall require the submission of financial data that allows the board to determine if the loan and interest rate will in fact prevent the elimination of jobs.

(f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of required jobs, the board may apply a graduated scale to increase the interest rate, not to exceed the board's posted rate.

(g) For purposes of calculating job creation or retention requirements, the board shall use the state's average weekly wage, as defined in 39-71-116, multiplied by the number of jobs required. This calculated number is the minimum aggregate salary threshold that is required to be eligible for a reduced interest rate. If individual jobs created pay less than the state's average weekly wage, the borrower shall create more jobs to meet the minimum aggregate salary threshold. If fewer jobs are created or retained than required in subsection (2)(d)(i) or (2)(d)(ii) but aggregate salaries meet the minimum aggregate salary threshold, the borrower is eligible for the reduced interest rate. A job paying less than the minimum wage, provided for in 39-3-409, may not be included in the required number of jobs.

(h) (i) A participating private financial institution may charge interest in an amount equal to the national prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6% or greater than 12%.

(ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to an adjustable or fixed rate on terms acceptable to the borrower and lender.

(iii) A participating private financial institution, or lead private financial institution if more than one is participating, may charge a 0.5% annual service fee.

(i) The business enterprise may not be charged a loan prepayment penalty.

(j) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation provisions based ~~upon~~ on the loan percentage of the board and each participating private lender.

(3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion of the loan must be made based ~~upon~~ on the percentage of completion to ensure that the construction portion of the loan is advanced prior to completion of the project.

(4) A private financial institution shall participate in a loan made pursuant to this section to the extent of 85% of its lending limit or 25% of the loan, whichever is less. However, the board's participation in the loan must be 75% of the loan amount.

(5) (a) Except as provided in subsection (5)(b), a business enterprise receiving a loan under the provisions of this section may not pay bonuses or dividends to investors until the loan has been paid off, except that incentives may be paid to employees for achieving performance standards or goals.

(b) A business enterprise for the production of ethanol to be used as provided in Title 15, chapter 70, part 5, may pay dividends to investors and bonuses to employees if the business enterprise is current on its loan payments and has available funds equal to at least 15% of the outstanding principal balance of the loan.

(6) The board may adopt rules that it considers necessary to implement this section."

Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 6, part 3, and the provisions of Title 17, chapter 6, part 3, apply to [section 1].

Section 8. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2017

CHAPTER NO. 374

[HB 597]

AN ACT CREATING THE MONTANA PUBLIC LAND ACCESS NETWORK GRANT PROGRAM; AUTHORIZING DONATIONS; CREATING THE MONTANA PUBLIC LAND ACCESS NETWORK ACCOUNT; AUTHORIZING DISBURSEMENTS; REQUIRING BOARD OF LAND COMMISSIONER APPROVAL; REQUIRING ACCESS EASEMENTS TO BE HELD AND ENFORCED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; EXCLUDING PAYMENTS FOR ACCESS FROM ADJUSTED GROSS INCOME; PROVIDING A STATUTORY APPROPRIATION; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2110, 17-1-508, 17-7-502, AND 87-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana public land access network grant program – donations – rulemaking – definitions. (1) There is a Montana public land access network grant program. An individual or organization may seek a grant from the program to secure public access through private land to public land, as defined in 15-30-2380, for which there is no other legal public access or to enhance existing access to public land.

(2) The grant program is funded by private donations. State agencies shall, as appropriate, facilitate private donations to the Montana public land access

network account established in [section 2], including but not limited to the following methods:

(a) a donation by a person of \$1 or more above the price of a wildlife conservation license purchased pursuant to 87-2-202 or the price of a combination license that includes a conservation license; and

(b) a donation by a person, as defined in 2-4-102, through the websites of the department of natural resources and conservation, the department of fish, wildlife, and parks, and the state of Montana.

(3) (a) The department of natural resources and conservation shall adopt a logo for the Montana public land access network grant program, using the acronym "MT-PLAN". The department of natural resources and conservation and the department of fish, wildlife, and parks shall use the logo on signs and maps indicating the locations and access points of public lands made accessible through the grant program.

(b) Subject to the limitations provided in [section 2(4)], either department may be reimbursed from the Montana public land access network account established in [section 2] for reasonable costs, as determined by the board, that are associated with subsection (3)(a).

(4) The department of natural resources and conservation may adopt rules to implement the provisions of this part.

(5) As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Board" means the board of land commissioners.

(b) "Department" means the department of natural resources and conservation.

Section 2. Montana public land access network account. (1) There is a Montana public land access network account to the credit of the department in the state special revenue fund established in 17-2-102. Money deposited in the account is statutorily appropriated, as provided in 17-7-502, and may be used only for the purposes of this part.

(2) The following funds must be deposited in the account:

(a) money received pursuant to [section 1] or from any other source for the purposes of this part; and

(b) any interest or income earned on the account.

(3) The department shall make disbursements from the account for access project grants that are approved by the board pursuant to [section 3].

(4) An amount that equals up to 10% of the grants awarded pursuant to this part in each fiscal year may be used by the department for administrative purposes. In addition, during the first 5 years of the grant program, the department may use up to 5% of the funds in the account each year to advertise the Montana public land access network. After that, the department may use up to 2% of the funds in the account each year for advertising. All administrative costs paid from the account must be approved by the board.

(5) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(6) Any unspent or unencumbered money in the account on [the termination date of this act] must be transferred to a state special revenue account to the credit of the department and used to secure public access to public land for which there is no other legal public access or to enhance existing access to public land.

Section 3. Grants – eligibility. (1) An individual or organization may apply to the department for a grant to pay for costs associated with an access project that secures public access through private land to public land, as defined in 15-30-2380, for which there is no other legal public access or to

enhance existing access to public land. The costs must include payments to the owner of private land who allows public access. Grants may not be made to pay costs associated with litigation related to public access.

(2) An access project that is eligible to receive a grant:

(a) (i) except as provided in subsection (2)(a)(ii), must provide public access for recreational purposes; and

(ii) if the access project would provide access to state trust land, as defined in 77-1-101, must provide access for all lawful purposes to the state trust land;

(b) may have a term that ranges from 3 years to in perpetuity. A termed easement that is awarded a grant pursuant to this section creates no expectation of access after the term expires.

(c) may not provide access to a previously inaccessible parcel of land if that parcel is leased state land under Title 77, chapter 1, and the lessee is not the landowner granting access to the parcel.

(3) The department shall make recommendations to the board regarding grant applications received pursuant to this section. A grant must be approved by the board before it is disbursed pursuant to [section 2].

(4) An access easement that is awarded a grant pursuant to this part must be held and enforced by the department.

(5) The department shall report the details of approved access project grants to the legislative auditor.

Section 4. Section 15-30-2110, MCA, is amended to read:

“15-30-2110. Adjusted gross income. (1) Subject to subsection (14), adjusted gross income is the taxpayer’s federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability as determined under subsection (15);

(c) that portion of a shareholder’s income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer’s Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (16), the first \$4,070 of all pension and annuity income received as defined in 15-30-2101;

(ii) subject to subsection (16), for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero;

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163; ~~and~~

(t) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104; ~~and~~

(u) *a payment received by a private landowner for providing public access to public land pursuant to [sections 1 through 3].*

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469

of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section

529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in 53-25-118.

(13) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;
(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (13)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(14) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(15) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the following order as applicable:

(a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax year;

(b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year but did not result in a reduction in state income tax liability in that prior tax year; and

(c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

(16) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o)

terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(t) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)”

Section 5. Section 17-1-508, MCA, is amended to read:

“17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in [section 2] and 77-1-108, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

- (a) the money is from a continuing, reliable, and estimable source;
- (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;
- (c) the authority exists elsewhere;
- (d) an alternative appropriation method is available, practical, or effective;
- (e) it appropriates state general fund money for purposes other than paying for emergency services;
- (f) the money is used for general purposes;
- (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- (h) an expenditure cap and sunset date are excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.”

Section 6. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004;

37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; [section 2]; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 7. Section 87-2-903, MCA, is amended to read:

"87-2-903. (Temporary) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and donations received pursuant to 87-1-293 and [section 1], less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to 87-1-293 and *[section 1]*.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and from donations received pursuant to 87-1-293 and *[section 1]*, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Terminates June 30, 2019--sec. 7, Ch. 83, L. 2013.)

87-2-903. (Effective July 1, 2019) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses *and donations received pursuant to [section 1]*, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. *The term does not include donations collected pursuant to [section 1].*

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses *and from donations received pursuant to [section 1]*, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with

interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section.”

Section 8. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 3].

Section 9. Effective date. [This act] is effective July 1, 2017.

Section 10. Termination. [This act] terminates June 30, 2027.

Approved May 9, 2017

CHAPTER NO. 375

[HB 638]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR A DEVELOPMENTAL DISABILITY AND AGING SERVICES PROVIDER RATE INCREASE FOR DIRECT CARE WORKER WAGES; AUTHORIZING A FUND TRANSFER FROM THE OLDER MONTANANS TRUST FUND TO THE DIRECT CARE WORKER WAGES ACCOUNT; AMENDING SECTION 52-3-115, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation for direct care worker wages. (1) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2017, for a rate increase for developmental disability services providers to be phased in and used as provided in this section:

Fiscal Year 2018	\$5,277,977	federal special revenue
	\$2,789,240	state special revenue fund
Fiscal Year 2019	\$12,326,129	federal special revenue
	\$6,526,928	state special revenue fund

(2) Providers must use the appropriation to increase wages only for workers who:

- (a) provide direct care;
- (b) are employed in community services established pursuant to 53-20-205;

and

- (c) are not state employees.

(3) Except as provided in subsection (4), the department shall phase in the appropriation on July 1 and January 1 of each year of the biennium in a manner that provides the equivalent of an increase in wages of at least 75 cents an hour per employee.

(4) (a) If the appropriation is insufficient to provide the equivalent of a biannual increase of 75 cents an hour per employee, the department shall provide the maximum provider rate increase possible from the appropriation.

(b) If the appropriation allows for the equivalent of a biannual increase of more than 75 cents an hour per employee, the department shall use the full amount of the appropriation to provide the greater increase.

(5) The appropriation in this section is intended to increase medicaid services and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates. The

appropriation in this section may not be used to provide wages to program managers, administrative staff, management staff, schedulers, nurse supervisors, licensed practical nurses, registered nurses, or case managers.

(6) The legislature intends that the appropriation in this section be considered a part of the ongoing base for the next legislative session.

Section 2. Appropriation for direct care worker wages. (1) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2017, for a rate increase for home and community-based services waiver direct care workers and for community services personal care assistants to be administered by the senior and long-term care division for elderly and physically disabled individuals, to be phased in and used as provided in this section:

Fiscal Year 2018	\$808,268	federal special revenue
	\$427,144	state special revenue fund
Fiscal Year 2019	\$1,211,568	federal special revenue
	\$641,549	state special revenue fund

(2) Providers may use the appropriation to increase wages only for workers who:

- (a) provide direct care;
- (b) are employed in community services; and
- (c) are not state employees.

(3) The department shall use the appropriation starting on:

(a) July 1, 2017, to increase wages by at least \$1.50 an hour per employee; and

(b) July 1, 2018, to increase wages by at least \$2.25 an hour per employee.

(4) The appropriation in this section is intended to increase medicaid services and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates. The appropriation in this section may not be used to provide wages to program managers, administrative staff, management staff, schedulers, nurse supervisors, licensed practical nurses, registered nurses, or case managers.

(5) The legislature intends that the appropriation in this section be considered a part of the ongoing base for the next legislative session.

Section 3. Direct care worker wage account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the direct care worker wage account.

(2) There must be deposited in the account money received from fund transfers provided by [sections 4 and 5].

(3) The money in the account must be used to fund the state special revenue appropriations in [sections 1 and 2].

Section 4. Contingent fund transfer to direct care worker wage account. (1) For the fiscal year ending June 30, 2017, if the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2017 is more than the estimated state general fund revenue in House Joint Resolution No. 2 for the same fiscal year, then the state treasurer shall transfer the amount of general fund revenue that exceeds the revenue estimate from the general fund to the direct care worker wage account provided in [section 3], not to exceed \$2,789,240. The state treasurer shall make the transfer by August 1, 2017, and before the transfer in section 14(4) of Senate Bill No. 367.

(2) For the fiscal year ending June 30, 2018, if the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2018 is more than the estimated state general fund revenue in House Joint Resolution No. 2 for the same fiscal year, then the state treasurer shall transfer the amount of general fund revenue that exceeds the revenue estimate from

the general fund to the direct care worker wage account provided in [section 3], not to exceed \$6,526,928. The state treasurer shall make the transfer by August 1, 2018, and before the transfer in section 14(4) of Senate Bill No. 367.

(3) For the purpose of this section, certified unaudited general fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102 and include transfers into the general fund.

Section 5. Transfer of funds to direct care worker wage account.

By July 1, 2017, the state treasurer shall transfer \$1,068,693 from the older Montanans trust fund, provided for in 52-3-115, to the direct care worker wage account provided in [section 3] for the biennium beginning July 1, 2017.

Section 6. Section 52-3-115, MCA, is amended to read:

“52-3-115. Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) The money in the fund may be used to ~~create new, innovative services or to expand fund~~ existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. ~~Until the year 2015, if assets in the fund reach the following amounts, money~~ Money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2): [section 2].

(a) ~~When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.~~

(b) ~~When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.~~

(c) ~~When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.~~

(5) ~~On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).~~

(6)(5) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.”

Section 7. Coordination instruction. If Senate Bill No. 367 and [this act] are both passed and approved and if Senate Bill No. 261 is not passed and approved, then [section 1 of Senate Bill No. 367] is amended to include the following definition:

“(4) “Excess revenues” means the amount of general fund revenue that exceeds the revenue estimate established pursuant to 5-5-227 minus the amount of the general fund transfer provided for in [section 4 of House Bill No. 638].”

Section 8. Coordination instruction. If Senate Bill No. 261, Senate Bill No. 367, and [this act] are passed and approved, then [section 1 of Senate Bill No. 367] is amended to include the following definition:

“(4) “Excess revenues” means the amount of general fund revenue that exceeds the revenue estimate established pursuant to 5-5-227 plus the amount of the general fund transfer provided for in [section 4 of House Bill No. 638].”

Section 9. Effective date. [This act] is effective July 1, 2017.

Section 10. Termination. [Sections 3 and 6] terminate June 30, 2019.

Approved May 9, 2017

CHAPTER NO. 376

[HB 5]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2019; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; AMENDING SECTION 5, CHAPTER 324, LAWS OF 2011; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [sections 1 through 7], unless otherwise stated, the following definitions apply:

(1) “Authority only” means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and nonstate university funds.

(2) “Capital project” means the acquisition of land or improvements or the planning, capital construction, environmental cleanup, renovation, furnishing, or major repair projects authorized in [sections 1 through 7].

(3) “LRBP” means the long-range building program account in the capital projects fund type provided for in 17-7-205.

(4) “Other funding sources” means money other than LRBP money, state special revenue, or federal special revenue that accrues to an agency under the provisions of law.

(5) “SBECP funds” means funds from the state building energy conservation program account in the capital projects fund type.

Section 2. Capital projects appropriations and authorizations. (1) The following money is appropriated to the department of administration for the indicated capital projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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DEPARTMENT OF ADMINISTRATION

Life Safety and Deferred Maintenance, Capitol Complex

3,500,000	3,500,000
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State Special Revenue funds consist of capitol land grant funds.

Utility Rebate Funds, Statewide

2,000,000	2,000,000
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Life Safety and Deferred Maintenance - Statewide

5,500,000	5,500,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

Life Safety and Deferred Maintenance - MUS - Statewide

3,000,000	3,000,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Montana Mental Health Nursing Care Center Boiler and Heating Replacement - Lewistown

2,500,000	2,500,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

Southwestern Montana Veterans' Home

9,831,250	9,831,250
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DEPARTMENT OF JUSTICE

Montana Law Enforcement Academy

8,100,000	8,100,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

DEPARTMENT OF MILITARY AFFAIRS

Female Latrines - Statewide

200,000	200,000	400,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

Statewide Roof Replacement and Repair

1,100,000	2,200,000	3,300,000
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State special revenue funds consist of long-range building program funds of the capital projects fund type.

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Electrical Upgrades, Lewis & Clark Caverns State Park

2,200,000	2,200,000
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Administrative Facilities Major Maintenance

2,737,000	262,500	2,999,500
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DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Forestry Division Mechanic Shop, Missoula

300,000	300,000
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MONTANA UNIVERSITY SYSTEM

Liberal Arts Building Renovation, UM	6,000,000	6,000,000
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Clinical Psychology Addition, UM	4,000,000	4,000,000
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Neural Injury Center, UM	7,000,000	7,000,000
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Education Building Expansion, UM	20,000,000	20,000,000
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MAES Livestock Complex, MSU	10,000,000	10,000,000
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Living Learning Center, MT Tech	8,500,000	8,500,000
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Natural Resources Research Center Addition, Montana Tech	350,000	350,000
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Barnard Hall Renovation, MSU Bozeman	1,500,000	1,500,000
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(2) The following money is appropriated to the department of military affairs for the indicated capital projects from the indicated sources:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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DEPARTMENT OF MILITARY AFFAIRS

UTES/CSMS Wash Facility, Helena

2,000,000 2,000,000

Cemetery Improvements, Ft. Harrison and Miles City

4,000,000 4,000,000

Replace Malta Readiness Center

3,015,000 3,015,000

Section 3. Capital Improvements. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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Parks Program Maintenance

2,000,000 2,000,000

The department will prioritize projects that address sanitization and safety concerns at state parks with this appropriation.

Upland Game Bird Enhancement Program

1,164,000 1,164,000

Wildlife Habitat Maintenance

500,000 500,000

Forest Management

100,000 100,000

Migratory Bird Program

880,000 880,000

Cultural Preservation, Bannack State Park

1,650,000 1,650,000

Road Infrastructure Repairs, Makoshika State Park

2,100,000 2,100,000

Grant Programs

222,400 4,900,000 5,122,400

Future Fisheries

1,177,000 1,177,000

FAS Site Protection

500,000 1,743,200 2,243,200

Hatchery Maintenance

550,000 175,000 725,000

Dam Maintenance

60,000 60,000

Community Fishing Ponds

25,000 25,000

Fish Passage Construction, Statewide

183,000 372,000 165,000 720,000

Hatchery Raceways, Murray Springs

300,000 300,000

(2) Authority is granted to the university of Montana in the indicated amount for the purpose of making capital improvements to existing campus facilities. Authority-only funds may include federal special revenue, donations, grants, auxiliary funds, proprietary funds, and nonstate university funds. All costs for additional operations and maintenance of any improvements constructed under this authorization must be paid by the university of Montana from nonstate sources:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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General Spending Authority

6,000,000 6,000,000

(3) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to existing statewide facilities. All costs for additional operations and maintenance of any improvements constructed under this authorization must be paid by the department of military affairs from nonstate sources:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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Federal Spending Authority

3,000,000 3,000,000

(4) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements as indicated:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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Maintenance, Repair, & Small Projects

2,500,000 2,500,000

(5) The following money is appropriated to the department of environmental quality in the indicated amount from state building energy conservation funds for the purpose of making capital improvements as indicated:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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Energy Improvements, Statewide

3,700,000 3,700,000

State special revenue funds consist of state building energy funds of the capital fund type.

(6) Authority is granted to Montana state university in the indicated amount for the purpose of making capital improvements to existing campus facilities. Authority-only funds may include federal special revenue, donations, grants, auxiliary funds, proprietary funds, and nonstate university funds. All costs for additional operations and maintenance of any improvements constructed under this authorization must be paid by the Montana state university from nonstate sources:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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General Spending Authority, MSU

3,000,000 3,000,000

Section 4. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, fee title, land leasing, easement purchase, or development agreements:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only	Total
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Habitat Montana

13,324,000 13,324,000

Bighorn Sheep Habitat

370,000

370,000

Home to Hunt Access

220,000

220,000

FAS Acquisition

298,000

186,000

484,000

Section 5. Planning and design. The department of administration may proceed with the planning and design of capital projects in [section 2] prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funding from another funding source.

Section 6. Capital projects – contingent funds. If a capital project is financed in whole or in part with appropriations contingent upon the receipt of funding from another funding source, the department of administration may not let the project for bid until the agency receiving funding has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [section 2] for that project; or

(2) the scope of the project is substantially altered or revised from the description presented for that project in the 2019 biennium long-range building program presented to the 65th legislature.

Section 7. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [section 2] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

Section 8. Legislative consent. The appropriations authorized in [sections 1 through 7] constitute legislative consent for the capital projects contained in [sections 1 through 7] within in the meaning of 18-2-102.

Section 9. Section 5, Chapter 324, Laws of 2011, is amended to read:

“Section 5. Capital project appropriations. (1) There is appropriated ~~\$4,812,500 up to \$5,293,750~~ from state special revenue account established in section 2, Chapter 461, Laws of 2009, to the department of administration for the southwestern Montana veterans’ home project.

(2) There is appropriated ~~\$8,937,500~~ ~~\$9,831,250~~ from the federal special revenue fund to the department of administration for the southwestern Montana veterans’ home project.

(3) *In the event of a private donation of the amount in subsection (2) and subsequent receipt of federal funds, the federal funds must be deposited in the general fund.*

(3)(4) The department of administration is authorized to transfer the appropriations in subsections (1) and (2) among the necessary fund types for this project.”

Section 10. Coordination instruction. If [LC 681] is not passed and approved containing a transfer from the consumer protection account to the long-range building program account, then the appropriation to the department of administration for the Montana law enforcement academy project in [section 2] is void.

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2017

CHAPTER NO. 377

[SB 260]

AN ACT CREATING THE SCHOOL FACILITIES FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND; ALLOCATING COAL SEVERANCE TAX FUNDS TO THE SCHOOL FACILITIES FUND; PROVIDING FOR TRANSFERS; CREATING A STATE SPECIAL REVENUE ACCOUNT; REVISING THE ALLOCATION OF COAL SEVERANCE TAXES; AMENDING SECTION 17-5-703, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. School facilities fund – school facilities state special revenue account. (1) There is a school facilities fund administered by the department of administration. Pursuant to 17-5-703, a percentage of coal severance taxes received by the state are deposited into this fund. Earnings not transferred to the school facilities account provided for in subsection (2) must be retained in the school facilities fund.

(2) There is a school facilities account in the state special revenue fund. The account receives earnings from the school facilities fund as provided in 17-5-703 and may be used only for school facility projects authorized by the legislature. In fiscal years 2018 and 2019, the state treasurer shall transfer from this account to the public employees' retirement system defined benefit plan trust fund an amount to satisfy the provisions of 15-35-108(9)(b)(iv).

(3) A school district that receives funds from the school facilities account shall, within 30 days of receiving the funds, file with the office of the superintendent of public instruction a document acknowledging it has received funds from the coal severance tax trust fund.

Section 2. Section 17-5-703, MCA, is amended to read:

“17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a big sky economic development fund; and

(g) a school facilities fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) and (4) and (5).

(3) (a) ~~Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund:~~

~~(b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.~~

(c)(a) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

~~(d)(b) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.~~

(4) (a) *Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in [section 1(1)] 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified pursuant to subsection (2) to be retained in the fund.*

(b) The state treasurer shall monthly transfer from the school facilities fund to the school facilities special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the school facilities special revenue account must be retained by the school facilities fund.

(4)(5) (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5)(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, 2031--secs. 1 through 3, Ch. 305, L. 2015.)

17-5-703. (Effective July 1, 2031) Coal severance tax trust funds. (1)

The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund; ~~and~~

(e) a big sky economic development fund; *and*

(f) *a school facilities fund.*

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) ~~and (4)~~ (4) *and (5).*

(3) ~~(a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.~~

~~(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.~~

(4) (a) Starting July 1, 2017, the state treasurer shall quarterly transfer to the school facilities fund provided for in [section 1(1)] 75% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund. The budget director shall certify to the state treasurer when the balance of the school facilities fund is \$200 million. Beginning with the quarter following this certification, the state treasurer shall instead transfer to the coal severance permanent fund 75% of the amount in the coal severance tax bond fund that exceeds the amount that is specified pursuant to subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the school facilities fund to the school facilities special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the school facilities special revenue account must be retained by the school facilities fund.

~~(4)(5)~~ (a) From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in 90-1-205, the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-1-204. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.

(5)(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 11, 2017

CHAPTER NO. 378

[HB 209]

AN ACT TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2019; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through June 30, ~~2017~~ 2019, and beginning July 1, 2017 2019, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement; and

(iv) except as provided in subsection (9)(c), up to \$21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b)(iv) subject to legislative approval. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection (9)(c), up to \$24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."

Section 2. Coordination instruction. If House Bill No. 648 is not passed and approved or if House Bill No. 648 does not contain a statutory appropriation from the general fund for a supplemental state contribution to the public employees' retirement system of at least \$31.386 million for FY 2018 and at least \$31.958 million for FY 2019, [this act] is void.

Section 3. Effective date. [This act] is effective July 1, 2017.

Approved May 11, 2017

CHAPTER NO. 379

[HB 226]

AN ACT ALLOWING FOR AN INCREASE OF THE ABATEMENT FOR NEW OR EXPANDING INDUSTRY; AMENDING SECTION 15-24-1402, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry – assessment – notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at ~~50%~~ 25% or 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during

which the benefit is first applicable. The governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (2)(b)(i).

(c) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

(d) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(f) Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(e) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies

or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.”

Section 2. Applicability. [This act] applies to new or expanding industry tax abatements granted on or after [the effective date of this act].

Approved May 11, 2017

CHAPTER NO. 380

[HB 308]

AN ACT CREATING AN INCOME TAX CREDIT PROGRAM FOR EMPLOYERS OF REGISTERED APPRENTICES, INCLUDING AN INCREASED CREDIT FOR EMPLOYING VETERANS; PROVIDING THAT THE CREDITS BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2618 AND 15-31-511, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Employer apprenticeship tax credit – increased credit for employing veteran apprentice. (1) An employer that employs an apprentice or a veteran apprentice who works in Montana as a new employee in a state-registered apprenticeship training program is eligible for an annual credit against income taxes imposed pursuant to Title 15, chapter 30 or 31.

(2) The amount of the credit is limited to:

(a) except as provided in subsection (2)(b), \$750 for each apprentice employed; and

(b) \$1,500 for each apprentice employed who is a veteran.

(3) A tax credit is not available to the employer until after the apprentice has completed the apprentice training program’s probationary period or 6 months, whichever is earlier.

(4) An employer shall apply each year to the department to receive approval to claim the credit for the preceding calendar year. The credit may not be claimed for more than 5 tax years for each individual apprentice. The department shall provide a successful applicant with the form provided for in [section 2(6)].

(5) Prior to approving a tax credit, the department shall verify that the employee for which the credit is sought is employed in a state-registered apprenticeship program, that the employee is a new employee in an apprenticeship program, and whether the employee is a veteran.

(6) By December 31 each year, the department shall provide to the department of revenue a list of the employers approved for the tax credit, the apprentices employed by the employer, and the aggregate total of tax credits allowed. The list must include the federal tax identification number of the employer and the name and social security number or federal tax identification number of the registered apprentice.

(7) The identity and social security number or federal tax identification number of the apprentices employed by the employer are subject to the provisions of 15-30-2618 and 15-31-511.

(8) The department shall provide to each high school in the state information about apprenticeship programs, including but not limited to occupations for

which apprenticeships are available, student application requirements, and program requirements.

(9) The department may adopt rules necessary to administer this section.

(10) For the purposes of this section, the following definitions apply:

(a) "New employee" means an individual who was not employed as an apprentice or veteran apprentice before [the effective date of this act].

(b) "Veteran" has the meaning provided in 39-29-101.

Section 2. Tax credit for hiring registered apprentice or veteran apprentice. (1) Subject to the provisions of [section 1], a taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter for employing a registered apprentice or registered veteran apprentice who works in Montana.

(2) The credit may not exceed the taxpayer's tax liability and may not be carried forward or carried back.

(3) The credit may be claimed only in the tax year in which the department of labor and industry approved the credit as provided in [section 1(4)]. If a taxpayer claims the credit but was not approved by the department of labor and industry, the taxpayer's return will be processed without regard to the credit.

(4) For fiscal year filers, the credit available to claim in the current fiscal year is the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(5) Subject to the probationary period provided for in [section 1], if an employer employs an apprentice for less than the full preceding calendar year, the employer may apply for the full credit for the year in which the apprentice was employed.

(6) The department shall, after consultation with the department of labor and industry, prescribe a form for a taxpayer to claim the tax credit. The form must provide the department with sufficient information for the proper administration of the credit.

(7) The department shall provide the department of labor and industry an annual report detailing the tax credit provided to employers for the previous year. The information provided to the department of labor and industry is subject to the provisions of 15-30-2618 and 15-31-511.

(8) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit.

Section 3. Tax credit for hiring registered apprentices or veteran apprentices. (1) There is a tax credit against the taxes otherwise due under 15-31-121 or 15-31-122 that is allowable in the amount established pursuant to [section 1] when a taxpayer employs a registered apprentice or registered veteran apprentice who works in Montana. The credit is administered as provided in [section 1], [section 2], and this section.

(2) If the credit allowed under this section is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

Section 4. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.

(5) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(7) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(8) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return

of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(9) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry:

(i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs, information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed; and

(ii) *for the purpose of administering the apprenticeship tax credit provided for in [section 1], employer and apprentice information necessary to implement [section 1], [section 2], and [section 3];*

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been given as provided in 15-70-430. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20;

(i) to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(j) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(j) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

Section 5. Section 15-31-511, MCA, is amended to read:

"15-31-511. Confidentiality of tax records. (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(f) the disclosure of information to the commissioner of insurance's office that is necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1);

(b) provide corporate income tax and alternative corporate income tax information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

(c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(d) furnish to the superintendent of public instruction information required under 20-9-905;

(e) *exchange with the department of labor and industry taxpayer and apprentice information necessary to implement [section 1], [section 2], and [section 3].*

(5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)”

Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 39, chapter 6, and the provisions of Title 39, chapter 6, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 3].

Section 7. Effective date. [This act] is effective January 1, 2018.

Section 8. Applicability. [This act] applies to tax years beginning after December 31, 2017.

Approved May 11, 2017

CHAPTER NO. 381

[HB 391]

AN ACT ALLOWING FOR A REFUNDABLE EARNED INCOME CREDIT BASED ON A PERCENTAGE OF THE FEDERAL EARNED INCOME CREDIT; PROVIDING THAT THE CREDIT MAY NOT BE CLAIMED FOR CERTAIN INCOME; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Earned income tax credit. (1) Except as provided in subsection (3), a resident taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(2) The amount of the credit allowed under subsection (1) is 3% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(3) (a) Except for married taxpayers living apart who are treated as single under section 7703(b) of the Internal Revenue Code, 26 U.S.C. 7703(b), the credit is not allowed to married taxpayers if the spouses report their income on separate tax forms. Married taxpayers filing separately on the same form may allocate the credit between spouses.

(b) The credit is not allowed on earned income that is treated as a dividend received by a member of an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d). For the purpose of this

subsection (3)(b), the amount of the state tax credit provided for in subsection (2) is reduced by the reduction percentage.

(4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the credit. The credit may be claimed by filing a Montana income tax return.

(5) For the purpose of this section, the following definitions apply:

(a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under subsection (2).

(b) "Reduction percentage" means a percentage that is calculated by dividing the earned income that is disallowed under subsection (3)(b) by the total amount of earned income.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 1].

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Applicability. [This act] applies to income tax years beginning after December 31, 2018.

Approved May 11, 2017

CHAPTER NO. 382

[HB 574]

AN ACT ALLOWING FOR BUSINESS DEDUCTIONS ON A STATE INCOME TAX RETURN WHERE THE DEDUCTION HAS BEEN REDUCED AS A RESULT OF CALCULATING AND CLAIMING A FEDERAL CREDIT BASED ON THE DEDUCTION; AMENDING SECTION 15-30-2110, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection (14), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability as determined under subsection (15);

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (16), the first \$4,070 of all pension and annuity income received as defined in 15-30-2101;

(ii) subject to subsection (16), for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero;

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163; and

(t) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The ~~deduction~~ deductions in subsection (4)(a) must be made in the year that the wages, and salaries, or business expenses were used to compute the

credit. In the case of a partnership or small business corporation, the ~~deduction~~ *deductions in subsection (4)(a)* must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any

medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in 53-25-118.

(13) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (13)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(14) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(15) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the following order as applicable:

(a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax year;

(b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year but did not result in a reduction in state income tax liability in that prior tax year; and

(c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

(16) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(t) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2018.

Approved May 11, 2017

CHAPTER NO. 383

[HB 614]

AN ACT EXEMPTING PULSE PROCESSING EQUIPMENT FROM PROPERTY TAXATION; AMENDING SECTION 15-6-220, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-220, MCA, is amended to read:

"15-6-220. Agricultural processing facilities exemption – canola – malting barley – industrial dairy – ethanol. (1) The following property is exempt from property taxation:

(a) machinery and equipment used in a canola seed oil processing facility;

(b) machinery and equipment used in a malting barley facility;

(c) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy; ~~and~~

(d) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; ~~and~~

(e) *machinery and equipment used in a pulse processing facility.*

(2) "Canola seed oil processing facility" means a facility that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and packages the edible oil into food products, or engages in any one or more of those processes; and

(b) employs at least 15 employees in a full-time capacity.

(3) "Industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(4) "Industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(5) "Malting barley facility" means a facility and integral machinery and equipment used principally to malt malting barley and includes machinery and equipment to mix, blend, transport, transfer, or process the barley and malt at the facility.

(6) *"Pulse crops" means dry peas, lentils, chickpeas, and fava beans.*

(7) *"Pulse processing facility" means a facility and integral machinery and equipment placed into service after December 31, 2017, and used principally to process pulse crops. The term includes machinery and equipment used to mix, split, transport within the facility, transfer, extract protein from, dry, or handle any pulse crop."*

Section 2. Applicability. [This act] applies to machinery and equipment placed into service after December 31, 2017.

Section 3. Termination. [This act] terminates December 31, 2027.

Approved May 11, 2017

CHAPTER NO. 384

[HB 650]

AN ACT AUTHORIZING TRANSFERS AND FEES AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT RELATING TO MOTOR VEHICLES AND CORRECTIONS; CREATING AND INCREASING FEE PAYMENTS RELATED TO THE MOTOR VEHICLE DIVISION; CREATING STATE SPECIAL REVENUE ACCOUNTS AND ALLOCATING PAYMENTS OF FEES TO THE ACCOUNTS; REPEALING THE BOOT CAMP INCARCERATION PROGRAM; SETTING A MAXIMUM PAYMENT TO REGIONAL CORRECTIONS FACILITIES FOR THE BIENNIUM BEGINNING JULY 1, 2017; INCREASING FEE PAYMENTS FOR ISSUANCE OF TEMPORARY REGISTRATION PERMITS; EXPANDING THE USE OF THE VEHICLE INSURANCE VERIFICATION AND LICENSE PLATE OPERATING ACCOUNT; REQUIRING THE JUDICIAL BRANCH AND THE OFFICE OF STATE PUBLIC DEFENDER TO DEVELOP PROTOCOLS FOR THE APPOINTMENT OF COUNSEL IN TREATMENT COURTS; TRANSFERRING THE BOARD OF CRIME CONTROL AND ITS FUNCTIONS FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF CORRECTIONS; REDUCING THE SIZE OF THE BOARD AND ELIMINATING THE EXECUTIVE DIRECTOR POSITION OF THE BOARD OF CRIME CONTROL; AMENDING SECTIONS 2-15-2006, 3-1-318, 15-70-403, 44-1-501, 44-4-313, 46-18-201, 53-1-202, 53-30-134, 53-30-507, 60-3-201, 61-3-118, 61-3-224, 61-3-321, AND 61-6-158, MCA; REPEALING SECTIONS 53-30-401, 53-30-402, AND 53-30-403, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfers. By August 15, 2017, the state treasurer shall make the following transfers:

(1) \$2,970,000 from the consumer protection state special revenue account administered by the department of justice to the general fund;

(2) \$6,630,000 from the consumer protection state special revenue account administered by the department of justice to the long-range building program account for construction at the Montana Law Enforcement Academy; and

(3) \$300,000 from the parental contributions account established in 41-5-112 to the general fund.

Section 2. Medical examiner state special revenue account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the medical examiner account.

(2) Fees for services rendered pursuant to 46-4-103 must be deposited in the account.

(3) Funds in the account may only be used for the operation and administration of state forensic laboratories.

Section 3. Motor vehicle division administrative fees. The motor vehicle division of the department shall charge, impose, and collect a 9.6% administrative fee on all fees charged under 23-2-809, 23-2-617, and this title as follows:

(1) a 3% administrative fee to be deposited into the motor vehicle division administration account established in [section 4]; and

(2) a 6.6% administrative fee to be deposited in the transportation department's account in the state special revenue fund.

Section 4. Motor vehicle division state special revenue account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the motor vehicle division administration account.

(2) Administrative fees collected on behalf of the motor vehicle division pursuant to [section 3(1)] must be deposited in the account.

(3) Fees collected pursuant to 61-3-321(2) and (7) are deposited in this account.

Section 5. Highway patrol administration state special revenue account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the highway patrol administration account.

(2) Funds directed to the account by 15-70-403(8) and 60-3-201(1)(e) must be deposited in the account.

Section 6. Court-appointed special advocate account. (1) There is a court-appointed special advocate account in the state special revenue fund. There must be paid into this account the fees collected pursuant to 3-1-318. The money in the account must be used solely for the purpose of providing funding for court-appointed special advocates.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily provide special advocate services to receive or administer the distribution of the fund.

Section 7. Section 2-15-2006, MCA, is amended to read:

"2-15-2006. Board of crime control – composition – allocation. (1) There is a board of crime control.

(2) The board is allocated to the department of corrections for administrative purposes only as prescribed in 2-15-121, *except that the provisions of 2-15-121(2)(a) and (2)(c) do not apply. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply. The board may:*

(a) *direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the board; and*

(b) *collect all revenue for the board and deposit it in the proper fund or account. The board may not use or divert the revenue from the fund or account for purposes other than provided by law.*

(3) The board is composed of ~~18~~ 15 members appointed by the governor in accordance with 2-15-124 and any special requirements of Title I of the Omnibus Crime Control and Safe Streets Act, as amended. The board shall be representative of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and shall include representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.”

Section 8. Section 3-1-318, MCA, is amended to read:

“3-1-318. Surcharges upon certain criminal convictions -- exception.

(1) Except as provided in subsection (2), all courts of limited jurisdiction, except small claims courts, shall impose a \$10 surcharge on a defendant who is convicted of criminal conduct under state statute or who forfeits bond.

(2) A court may not waive payment of the surcharge unless the court determines that the defendant is unable to pay the surcharge. Inability to pay must be supported by a sworn statement from the defendant demonstrating financial inability to pay without substantial hardship in providing for personal or family necessities. The statement is not admissible in the proceeding unless offered for impeachment purposes and is not admissible in a subsequent prosecution for perjury or false swearing.

(3) The surcharge imposed by this section is not a fee or a fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be ~~forwarded to the department of revenue for deposit in the account created in 44-10-204 deposited in the court-appointed special advocate account established in [section 6].”~~

Section 9. Section 15-70-403, MCA, is amended to read:

“15-70-403. Gasoline and special fuel tax -- incidence -- rates. (1)

The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) 27 cents for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor;

(b) 27 ³/₄ cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(3) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(4) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this

state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(5) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(6) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

(7) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (6) must be produced using fuel on which Montana fuel tax has been paid.

(8) *Of the special fuel tax collected pursuant to subsection (1)(b), 4 cents must be deposited to the highway patrol administration state special revenue account established in [section 5] and the remainder must be deposited to the credit of the department of transportation for the purposes defined in 60-3-201(1)(f)."*

Section 10. Section 44-1-501, MCA, is amended to read:

"44-1-501. Payment of expenses. All ~~A~~ portion of expenses of the highway patrol ~~shall must~~ be paid out of the ~~transportation department's account in the state special revenue fund~~ highway patrol administration account established in [section 5]."

Section 11. Section 44-4-313, MCA, is amended to read:

"44-4-313. Restriction on use of funds. Funds deposited in the domestic violence intervention account may be used only for the program authorized in 44-4-311 and the costs authorized under 44-4-312 and may not be used to pay the expenses of any other program or service administered in whole or in part by the Montana board of crime control or the department of ~~justice~~ corrections."

Section 12. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

~~(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;~~

~~(n)(m)~~ participation in a day reporting program provided for in 53-1-203;

~~(o)(n)~~ participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

~~(p)(o)~~ participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

~~(q)(p)~~ any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

~~(r)(q)~~ any combination of the restrictions or conditions listed in subsections (4)(a) through ~~(4)(q)~~ (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."

Section 13. Section 53-1-202, MCA, is amended to read:

"53-1-202. Department of corrections. (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following correctional facilities or programs:

- (a) the prisons listed in 53-30-101;
- (b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:
 - (i) in prerelease centers;
 - (ii) under intensive supervision;
 - (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or
 - (iv) in other appropriate programs; *and*
- ~~(c) the boot camp authorized by 53-30-403; and~~
- ~~(d)(c)~~ the Montana correctional enterprises prison industries training program authorized by 53-30-131.

(3) Youth correctional services consist of the following correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of intervention pursuant to Title 52, chapter 5:

- (a) Pine Hills youth correctional facility or other state youth correctional facility; and
- (b) any other facility or program that provides custody and services for delinquent youth.

(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature.”

Section 14. Section 53-30-134, MCA, is amended to read:

“53-30-134. Montana correctional enterprises license plate production operating account. (1) There is a license plate production operating account of the ~~internal-service enterprise~~ fund type, as provided in 17-2-102.

(2) All payments received by the Montana correctional enterprises program under a contract related to the manufacture of license plates, *products and services provided for pursuant to 53-30-131 through 53-30-133, and* or fees paid under 61-3-478 must be deposited in the account.

(3) The money in the license plate production operating account must be used by Montana correctional enterprises for the operation and enhancement of its *inmate training and license plate manufacturing enterprise*.”

Section 15. Section 53-30-507, MCA, is amended to read:

“53-30-507. Rulemaking authority. (1) The department may adopt rules to implement this part, including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules must provide that in selecting a site, the department shall consider the need for a regional correctional facility in the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term contract with the department, and the availability of rehabilitative services to inmates. The rules must require that a corporation respond to a request for proposals prepared by the department for a regional correctional facility before a contract may be entered with that corporation.

(2) The department shall adopt rules that include the minimum applicable standards for the construction, operation, and physical condition of a state correctional facility portion of a regional correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of a regional correctional facility. The rules must require that a privately operated or privately owned and operated state correctional facility portion of a regional correctional facility conform

to applicable American correctional association and national commission on correctional health care standards.

(3) (a) The department shall adopt rules pursuant to Title 2, chapter 4, that specify a per diem rate that must be paid to a regional correctional facility for the confinement of persons in the state correctional facility portion of the regional correctional facility.

(b) The rules adopted pursuant to subsection (3)(a) must include but are not limited to:

- (i) a definition of per diem rate;
- (ii) a method of calculating the per diem rate; and
- (iii) the costs to be included in the per diem rate calculation.

(c) At a minimum, the per diem rate must include compensation for:

(i) direct costs, including budget expenditures directly attributable to confining inmates;

(ii) indirect costs, including budget expenditures that are not directly associated with the confinement of inmates but that are incurred to provide support services for the regional correctional facility;

(iii) capital costs, including depreciation or a pro rata portion of capital costs incurred; and

(iv) other costs that the department determines are necessary, including medical or transportation costs.

(d) The department shall determine by rule the costs that are not allowable as part of a per diem rate. Unallowable costs must include programs and services that do not have a direct benefit to persons confined in the regional correctional facility and depreciation for capital improvements paid for by the department and depreciation for equipment used in providing support services.

(e) A population factor must be included in the per diem rate to allow for accurate compensation based on the number of inmates confined in the regional correctional facility.

(f) The rules must provide for billing procedures and must allow for review of the per diem rate at least once each fiscal year. When reviewing the per diem rate, the department shall accept public comment that must be considered when the department is determining the accuracy of the per diem rate for the next fiscal year.

(4) *For the biennium beginning July 1, 2017, the department may pay to a regional correctional facility no more than the rate it paid to that facility on December 6, 2016."*

Section 16. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline tax. (1) All money received in payment of the gasoline tax under 15-70-403, except those amounts paid out of the department's suspense account for gasoline tax refund, must be used and expended as provided in this section. The portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102. After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder is allocated as follows:

- (a) 9/10 of 1% to the state park account;
- (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;
- (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund;

(d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301; ~~and~~

(e) *4 cents to the highway patrol administration state special revenue account established in [section 5]; and*

~~(e)(f)~~ the remaining amount:

(i) for use by the department on the highways in this state selected and designated by the commission;

(ii) for collection of the fuel taxes; and

(iii) ~~for the enforcement of the Montana highway code~~ *other authorized uses* under Article VIII, section 6, of the constitution of this state *except for the Montana highway patrol, and beginning July 1, 2018, for the department of justice motor vehicle division.*

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23 of the United States Code and the rules by which it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds.

(b) Of the amounts deposited in the snowmobile account:

(i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws.

(ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816.

(c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state.

(6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles.

(b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state.

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities

open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state.”

Section 17. Section 61-3-118, MCA, is amended to read:

“61-3-118. Motor vehicle electronic commerce operating account.

(1) There is a motor vehicle electronic commerce operating account of the enterprise fund type as provided in 17-2-102.

(2) *Fees* A portion of the fees imposed for issuance of a temporary registration permit under 61-3-224 must be deposited in the account.

(3) The money in the motor vehicle electronic commerce operating account must be used by the department to pay costs directly incurred in the operation, maintenance, and enhancement of electronic commerce applications, including but not limited to payments to third-party vendors who provide services to support the applications.”

Section 18. Section 61-3-224, MCA, is amended to read:

“61-3-224. Temporary registration permit – authority to adopt rules – issuance – placement – fees. (1) The department may adopt rules governing the issuance of temporary registration permits. The rules must specify the purposes for which a temporary registration permit may be issued, including but not limited to issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number in order to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident’s jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim; or

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in chapter 9 but the quadricycle or motorcycle designed for off-road recreational use is not registered or is only registered for off-road use in the nonresident’s home state.

(2) (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

(3) A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(4) A temporary registration permit issued under this section must contain the following information:

(a) a temporary plate number as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(5) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(6) (a) Except as provided in 61-3-431 and subsection (6)(b) of this section, a ~~fee~~ *\$19.50* fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the ~~vehicle is registered~~ *temporary registration permit is issued*.

(b) Except as provided in 61-3-431, a fee of ~~\$8~~ *\$24.50* is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state or who registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(7) The fees imposed under this section, upon collection, must be forwarded to the state and deposited *as follows*:

(a) *\$16.50 from each permit fee collected pursuant to subsection (6) in the state special revenue account established in 44-10-204; and*

(b) *the remainder in the motor vehicle electronic commerce operating account provided for in 61-3-118.*

(8) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."

Section 19. Section 61-3-321, MCA, is amended to read:

“61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) ~~Unless~~ (a) *Except as provided in subsection (2)(b), unless* a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- (a)(i) if the vehicle is 4 or less years old, \$217;
- (b)(ii) if the vehicle is 5 through 10 years old, \$87; and
- (c)(iii) if the vehicle is 11 or more years old, \$28.

(b) *For a light vehicle with a manufacturer's suggested retail price of more than \$150,000, the annual registration fee is:*

(i) *for a vehicle less than 1 year old, 1% of the manufacturer's suggested retail price, plus \$217;*

(ii) *for a vehicle between 1 and 2 years old, 0.9% of the manufacturer's suggested retail price, plus \$217;*

(iii) *for a vehicle between 2 and 3 years old, 0.8% of the manufacturer's suggested retail price, plus \$217; and*

(iv) *for a vehicle older than 3 years, the same fee as provided in subsection (2)(a).*

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (a) if the declared weight is less than 6,000 pounds, \$61.25; or
- (b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) ~~The~~ *Except as provided in subsection (7)(c), the* annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) *For a motor home with a manufacturer's suggested retail price of more than \$150,000, the annual registration fee is:*

(i) *for a motor home less than 1 year old, 1% of the manufacturer's suggested retail price, plus \$282.50;*

(ii) *for a motor home between 1 and 2 years old, 0.9% of the manufacturer's suggested retail price, plus \$282.50;*

(iii) *for a motor home between 2 and 3 years old, 0.8% of the manufacturer's suggested retail price, plus \$282.50; and*

(iv) *for a motor home older than 3 years, the same fee as provided in subsection (7)(a).*

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(22) (a) *The amount collected based on the manufacturer's suggested retail price in subsections (2) and (7) is exempt from the provisions of 15-1-122 and must be deposited in the account established in [section 4].*

(b) *By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice must deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the account established in [section 4]."*

Section 20. Section 61-6-158, MCA, is amended to read:

"61-6-158. Vehicle insurance verification and license plate operating account. (1) There is a vehicle insurance verification and license plate operating account in the state special revenue fund type as provided in 17-2-102.

(2) Fees imposed under 61-3-321(7)(b)(ii) and (13), 61-3-333, 61-3-465(1)(b)(i), 61-3-480(2)(c)(i), or 61-3-562(1)(a)(ii) or established and collected under 61-6-105 must be deposited in the account.

(3) The money in the vehicle insurance verification and license plate operating account must be used by the department to pay costs incurred in or associated with the operation, maintenance, and enhancement of the system established under 61-6-157 and the contract required in 61-3-338 for the manufacture and distribution of license plates by Montana correctional enterprises *or other costs incurred by the department or as otherwise appropriated by the legislature to the department."*

Section 21. Appointment protocols – transfer of spending authorization. (1) The office of court administrator and the office of state public defender shall work together to develop mutually agreeable protocols for when a public defender is appointed and participates in treatment courts operated by the judicial branch. The protocols must be developed and agreed to by both offices by December 31, 2017.

(2) It is the intent of the legislature that if House Bill No. 77 is passed and approved and provides for an executive director, the office of state public defender shall pay the executive director's salary and benefits for the biennium beginning July 1, 2017.

Section 22. Transition – implementation procedure. (1) Except as provided in subsections (2) and (3), the provisions of 2-15-131 through 2-15-137 govern the transfer of the board of crime control and the board's functions from the department of justice to the department of corrections.

(2) The department of corrections shall provide staff and support services to the board of crime control. The board of crime control, in conjunction with the department of corrections, may eliminate positions as the board determines to be necessary, subject to the provisions of 2-15-131.

(3) The department of corrections and the board of crime control shall continue to be colocated in office space leased by the department.

Section 23. Appropriation of state special revenue funds. For the fiscal year beginning July 1, 2018, any appropriation to the department of justice of state special revenue funds from the highway state special revenue fund as previously authorized pursuant to 60-3-201 and House Bill No. 2 must be paid from the accounts established in [sections 4 and 5], including appropriations to the motor vehicle division, information technology services division, and the central services division.

Section 24. Repealer. The following sections of the Montana Code Annotated are repealed:

53-30-401. Definitions.

53-30-402. Completion of boot camp -- suspension of sentence.

53-30-403. Boot camp incarceration program -- eligibility -- rulemaking.

Section 25. Codification instruction – directions to code commissioner. (1) [Section 2] is intended to be codified as an integral part of Title 46, chapter 4, and the provisions of Title 46, chapter 4, apply to [section 2].

(2) [Sections 3 and 4] are intended to be codified as an integral part of Title 61, chapter 3, and the provisions of Title 61, chapter 3, apply to [sections 3 and 4].

(3) [Section 5] is intended to be codified as an integral part of Title 44, chapter 1, and the provisions of Title 44, chapter 1, apply to [section 5].

(4) (a) (i) Section 2-15-2006 is intended to be renumbered and codified as an integral part of Title 2, chapter 15, part 23.

(ii) The code commissioner is instructed to renumber sections in Title 44, chapter 4, part 3, into a new chapter in Title 44.

(b) The code commissioner is instructed to change internal references within and to the renumbered sections enacted or amended by the 65th legislature, to reflect the new section numbers assigned to sections pursuant to this section.

(c) Any enactment, including an enactment of the 65th legislature, that requires that a section be codified in Title 44, chapter 4, part 3, and that is recodified pursuant to this section is intended to be codified as an integral part of the recodified part, and the provisions of the newly recodified part apply to the recodified section.

Section 26. Coordination instruction. (1) If both House Bill No. 5 and [this act] are passed and approved and House Bill No. 5 does not contain an appropriation to the department of justice for capital projects at the Montana law enforcement academy, the transfer in [section 1(2)] is void.

(2) If both House Bill No. 473 and [this act] are passed and approved, then [section 3 of this act] is replaced with the following language:

“Section 3. Motor vehicle division administrative fees. The motor vehicle division of the department shall charge, impose, and collect a 3% administrative fee on all fees charged under 23-2-809, 23-2-617, and this title to be deposited into the motor vehicle division administration account established in [section 4 of this act].”

Section 27. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved, [section 1 of House Bill No. 473] must be amended as follows:

“NEW SECTION. Section 1. Highway restricted account. (1) There is a highway restricted account in the state special revenue fund provided for in 17-2-102. All interest and income earned on the account must, in accordance with the provisions of 17-2-124, be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

(2) Subject to subsection (4) and 15-70-403(2), all revenue sources provided for in Article VIII, section 6, of the Montana constitution must be deposited in the account, including but not limited to:

(a) all taxes collected under this chapter except as provided in 15-70-403(2)(b);

(b) taxes collected for improperly imported fuel as provided in 15-70-419;

(c) fees collected for temporary special fuel permits as provided in 15-70-456; and

(d) GVW license fees as provided in 61-10-225 and 61-10-226.

(3) Except as provided in subsection (5), the money in the account is restricted and may be used only for the purpose of providing funding:

- (a) for statutory refunds and adjustments;
- (b) for debt service on highway revenue bonds;
- (c) to the department for distribution to local governments as provided in 15-70-101;
- (d) to the department for railroad grade crossing protection as provided in 15-70-102;
- ~~(e) to the department of justice for expenses of the highway patrol as provided in 44-1-501;~~
- ~~(f)~~ *until June 30, 2018*, to the department of justice for expenses of the motor vehicle division;
- ~~(g)~~ *(f)* for gasoline tax allocations as provided in 60-3-201;
- ~~(h)~~ *(g)* to the department for administration of the motor carrier services functions;
- ~~(i)~~ *(h)* to the department for the highways in this state selected and designated by the transportation commission provided for in 2-15-2502;
- ~~(j)~~ *(i)* to the department for the collection of fuel taxes;
- ~~(k)~~ *(j)* for driver education, which may not exceed \$10,000; and
- ~~(l)~~ *(k)* for tourist promotion, which may not exceed \$10,000.

(4) (a) The portion of money collected from all revenue sources provided for in Article VIII, section 6, of the Montana constitution on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102.

(b) The department is authorized to maintain a suspense account for gasoline and special fuel tax refunds and adjustments.

(5) The money in the account may be appropriated for purposes other than those listed in subsection (3) by a three-fifths vote of the members of each house of the legislature.

Section 28. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved:

“(1) the reference to 15-70-403(2)(b) in [section 2(1) of House Bill No. 473] must be changed to “15-70-403(2)(c) and (3)(c)”;

(2) the reference to 15-70-403(2)(b) in [section 1(2)(a) of House Bill No. 473] must be changed to “15-70-403(2)(b), (2)(c), (3)(b), and (3)(c).”

Section 29. Coordination instruction. If House bill No. 473 and [this act] are passed and approved, the reference to 15-70-403(2)(b)(i) in [section 5(3) of House Bill No. 473] must be changed to “15-70-403(2)(c)”.

Section 30. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved and if both contain a section that amends 15-70-403, then the sections amending 15-70-403 are void and 15-70-403 must be amended as follows:

“15-70-403. Gasoline and special fuel tax – incidence – rates. (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) ~~27 cents~~ for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor:

- (i) *31.5 cents in fiscal years 2018 and 2019;*
- (ii) *32 cents in fiscal years 2020 and 2021;*

- (iii) 32.5 cents in fiscal year 2022; and
- (iv) 33 cents in fiscal year 2023 and thereafter;

(b) 27-3/4 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor:

- (i) 29.25 cents in fiscal years 2018 and 2019;
- (ii) 29.45 cents in fiscal years 2020 and 2021;
- (iii) 29.55 cents in fiscal year 2022; and
- (iv) 29.75 cents in fiscal year 2023 and thereafter; and

(c) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 23 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in [section 1 of House Bill No. 473];

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in [section 5 of House Bill No. 650]; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the bridge and road safety and accountability restricted account provided for in [section 2 of House Bill No. 473].

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 23 3/4 cents of the tax to the highway restricted account provided for in [section 1 of House Bill No. 473];

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in [section 5 of House Bill No. 650]; and

(c) the remaining revenue from the tax to the bridge and road safety and accountability restricted account provided for in [section 2 of House Bill No. 473].

(2)(4) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(3)(5) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(4)(6) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(5)(7) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

- (a) the feed delivery box is permanently affixed to the vehicle;
- (b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(6)(8) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

(7)(9) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (6) (8) must be produced using fuel on which Montana fuel tax has been paid.”

Section 31. Coordination instruction. If House bill No. 473 and [this act] are passed and approved, the reference to 15-70-403(5) in [section 9(2) of House Bill No. 473] must be changed to “15-70-403(6)”.

Section 32. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved and if both include a section that amends 44-1-501, then [section 14 of House Bill No. 473], amending 44-1-501, is void.

Section 33. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved and if both contain a section that amends 60-3-201, then the sections amending 60-3-201 are void and 60-3-201 must be amended as follows:

“60-3-201. Distribution and use of proceeds of gasoline tax. (1) ~~All money~~ Money received in payment of the gasoline tax under 15-70-403, except those amounts paid out of the department’s suspense account for gasoline tax refund, must be *deposited as provided in 15-70-403(2) and (3) and* used and expended as provided in *[sections 1 and 2 of House Bill No. 473]* and this section. ~~The portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102.~~ After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder *of the gasoline tax collected under 15-70-403* is allocated as follows:

- (a) 9/10 of 1% to the state park account;
- (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;
- (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund;
- (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301; and
- (e) the remaining amount:
 - (i) for use by the department on the highways in this state selected and designated by the commission;
 - (ii) for collection of the fuel taxes; and
 - (iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state *as provided for in [sections 1 and 2 of House Bill No. 473].*

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23 of the United States Code and the rules by which it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds.

(b) Of the amounts deposited in the snowmobile account:

(i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws.

(ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816.

(c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state.

(6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles.

(b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state.

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 34. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved, then [section 3(2) of House Bill No. 650] must read

"(2) a 6.6% administrative fee to be deposited in the state special revenue account provided for in [section 1 of House Bill No. 473]".

Section 35. Coordination instruction. If House Bill No. 473 and [this act] are passed and approved, the reference to 15-70-403(8) and 60-3-201(1)(e) in [section 5(2) of this act] must read "15-70-403(2)(b) and (2)(c)".

Section 36. Coordination instruction. If both Senate Bill No. 59 and [this act] are passed and approved and [this act] includes language that eliminates the position of executive director of the board of crime control, then

[section 3(1)(f) of Senate Bill No. 59] is void and [section 3(1)(d) of Senate Bill No. 59] must read as follows:

“(d) two employees of the department of corrections selected by the director, one of whom must have expertise in data collection and reporting;”

Section 37. Saving clause. [Sections 7, 11, and 22] do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 38. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 39. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective July 1, 2017.

(2) [Sections 3, 7, 11, 19, and 22] are effective January 1, 2018.

(3) [Section 36] and this section are effective on passage and approval.

Approved May 11, 2017

CHAPTER NO. 385

[HB 586]

AN ACT APPROPRIATING GRANT FUNDS TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR THE CITY OF LAUREL WATER INTAKE PROJECT; PROVIDING CONDITIONS FOR THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) If a bonding bill is passed and approved that creates a state and local infrastructure account to be administered by the department of natural resources and conservation and provides for bonding proceeds to be deposited in that account that are dedicated for a grant to the city of Laurel for a water intake project pursuant to 85-1-602, the amount dedicated to the project is appropriated to the department from that account for that purpose in the biennium beginning July 1, 2017.

(2) This appropriation constitutes a valid obligation of these funds for purposes of encumbering funds during the biennium beginning July 1, 2017, pursuant to 17-7-302.

Section 2. Approval of grant. The legislature, pursuant to 85-1-605, approves the grants listed in [section 1].

Section 3. Condition of grants. Disbursement of funds under [sections 1 and 2] for the grant is subject to the following conditions that must be met by the project sponsor:

(1) approval of a scope of work and budget for the project by the department of natural resources and conservation;

(2) completion of conditions specified at the time of written notification of approved grant authority;

(3) execution of a grant agreement with the department; and

(4) accomplishment of other specific requirements considered necessary by the department to meet the purpose of the grant as evidenced from the application to the department or from the proposal to the legislature.

Section 4. Notification -- reversion of funds. If the grant sponsor listed in [section 1] determines that the project identified in [section 1] will not begin before June 30, 2019, the sponsor shall notify the department of

natural resources and conservation. Any unencumbered funds for the project must revert to the general fund.

Section 5. Effective date. [This act] is effective July 1, 2017.

Approved May 11, 2017

CHAPTER NO. 386

[SB 317]

AN ACT REVISING INTEREST ASSESSMENTS ON CERTAIN TAXES; PROVIDING THAT INTEREST ASSESSMENTS ON ALL TAXES OTHER THAN DELINQUENT INDIVIDUAL INCOME TAXES ARE BASED ON THE PRIME INTEREST RATE PUBLISHED BY THE FEDERAL RESERVE SYSTEM PLUS 3 PERCENTAGE POINTS; AND AMENDING SECTION 15-1-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-216, MCA, is amended to read:

“15-1-216. Uniform penalty and interest assessments for violation of tax provisions – applicability – exceptions – uniform provision for interest on overpayments. (1) A person who fails to file a required tax return or other report with the department by the due date of the return or report, including any extension of time allowed for in Title 15, chapter 30 or 31, must be assessed a late filing penalty. The penalty is the greater of \$50 or 5% of the tax due for each month during which there is a failure to file the return or report, not to exceed an amount up to 25% of the tax due. The late filing penalty is calculated from the due date or extended due date until the department actually receives the late return or report. The penalty is computed only on the net amount of tax due, if any, as of the original due date or extended due date provided for in Title 15, chapter 30 or 31, after credit has been given for amounts paid through withholding, estimated tax payments, or other credits claimed on the return.

(2) (a) (i) Except as provided in subsections (2)(a)(ii), (2)(b), and (2)(d), a person who fails to pay a tax when due must be assessed a late payment penalty of 0.5% a month on the unpaid tax. The penalty may not exceed 12% of the tax due.

(ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

(A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due; or

(B) subject to the conditions of 15-30-2512(1)(a)(i), the taxpayer pays at least 90% of the tax, when due, for the current year.

(b) (i) Except as provided in subsections (2)(b)(ii) and (2)(d), a person who fails to pay a tax when due under Title 15, chapter 30, part 25, chapter 53, chapter 65, or chapter 68, or Title 53, chapter 19, part 3, must be assessed a late payment penalty of 1.5% a month on the unpaid tax. The penalty may not exceed 15% of the tax due.

(ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest due with the tax return or report within 30 days following the first notice from the department to the taxpayer of the amount due.

(c) The penalty imposed under subsection (2)(a) or (2)(b) accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.

(d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

(3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement" means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the taxpayer reported on the return. For purposes of this subsection (3):

(i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for Title 15, chapter 30, part 33, if the understatement exceeds the greater of 10% of the amount of tax required to be shown on the return or \$3,000; and

(ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15, including Title 15, chapter 30, part 33, and for Title 16, chapter 11, and Title 53, chapter 19, part 3, if the understatement exceeds the lesser of:

(A) 10% of the amount of tax required to be shown on the return if the understatement is greater than \$10,000; or

(B) \$500,000.

(b) The amount of substantial understatement of tax penalty must be reduced by the amount of the understatement that is attributable to:

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment; or

(ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item by the taxpayer.

(4) (a) Except as provided in subsection (4)(b), a person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return or report as required under Title 15 when due or fails to file a return or report within 60 days after receiving written notice from the department that a return or report must be filed is liable for an additional penalty of 15% of the tax due for each month or fraction of a month during which the person purposely or knowingly fails to file a return or report, but not to exceed 75% of the tax due as determined by the department. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days after receiving written notice from the department that a return or report must be filed is liable for an additional penalty of \$1,000. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.

(5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or report. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

(b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount paid.

(6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty imposed, for a penalty of \$2,500. A frivolous return or report is one that is filed by a person and that omits information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

(7) (a) Interest on taxes not paid when due must be assessed by the department. The department shall determine the interest rate established under subsection (7)(a)(i) for each calendar year by rule subject to the conditions of this subsection (7)(a). Interest rates on taxes not paid when due for a calendar year are as follows:

(i) (A) For individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. 6621, for the fourth quarter of the preceding year or 8%, whichever is greater.

(B) Beginning January 1, 2018, for individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. 6621, for the third quarter of the preceding year.

(ii) (A) For all taxes other than individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is ~~12% a year~~ 12% a year.

(B) *Beginning July 1, 2019, the interest rate is 3 percentage points above the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans for the last business day of the third quarter of the preceding year.*

(b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

(8) (a) Except as provided in subsection (8)(b), this section applies to taxes, fees, remittances, and other assessments imposed under Title 15, Title 16, and Title 53, chapter 19, part 3.

(b) This section does not apply to:

(i) property taxes; or

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70.

(9) Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in effect at the time the tax accrued.

(10) Penalty and interest must be calculated and assessed commencing with the due date of the return.

(11) Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

(12) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate

determined in subsection (7)(a)(i). (Subsection (7)(a)(i)(A) terminates December 31, 2017--sec. 18, Ch. 308, L. 2015.)”

Approved May 11, 2017

CHAPTER NO. 387

[SB 363]

AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES; PROVIDING REVENUE SOURCES TO PREVENT AND CONTROL AQUATIC INVASIVE SPECIES; ESTABLISHING THE AQUATIC INVASIVE SPECIES PREVENTION PASS; ESTABLISHING A HYDROELECTRIC FACILITY FEE; ESTABLISHING A FEE FOR HYDROELECTRIC-DEPENDENT UTILITIES; ALLOCATING REVENUE; DEFINING “HYDROELECTRIC FACILITY”; EXTENDING RULEMAKING AUTHORITY; REVISING THE INVASIVE SPECIES TRUST FUND; AMENDING SECTIONS 17-1-106, 69-3-308, 80-7-1004, 80-7-1006, 80-7-1010, 80-7-1016, 80-7-1017, 80-7-1018, 87-2-514, 87-2-711, 87-2-816, 87-2-817, AND 87-2-903, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND TERMINATION DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Aquatic invasive species prevention pass. (1) To be eligible to fish in Montana or to apply for a fishing license or a combination license that includes a fishing license a person must first obtain an aquatic invasive species prevention pass as provided in this section. The pass must be purchased once each license year.

(2) Resident aquatic invasive species prevention passes may be purchased for a fee of \$2.

(3) Nonresident aquatic invasive species prevention passes may be purchased for a fee of \$15.

Section 2. Invasive species fee for hydroelectric facilities. (1) In recognition of the threat that invasive species pose to Montana’s hydroelectric power structures and systems, a hydroelectric facility shall pay a quarterly invasive species fee of \$795.76 per megawatt of the facility’s nameplate capacity authorized by the federal energy regulatory commission.

(2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.

(3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

(4) The department may audit the records and other documents of a hydroelectric facility to ensure that the proper fee is paid and collected pursuant to this section.

(5) A hydroelectric facility that funds protection, mitigation, and enhancement measures pursuant to a settlement approved by the federal energy regulatory commission may use any of those funds that are unobligated to pay, in whole or in part, the fee owed pursuant to subsection (1).

(6) Money collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

(7) For the purposes of this section, the public service commission shall determine the appropriate recovery of this fee in rates in a proceeding held pursuant to 69-3-302 for any hydroelectric facility approved pursuant to 69-8-421.

(8) For the purposes of this section, “hydroelectric facility” means an operating facility located in Montana in a watercourse as that term is defined in 85-2-102 that produces electricity using water power and has more than 1.5 megawatts in nameplate capacity.

Section 3. Invasive species fee for hydroelectric-dependent utilities. (1) Between July 1, 2017, and June 30, 2019, a load-serving utility that receives more than 50% of its annual electricity supply from hydroelectric generation supplied by a federal power marketing administration and that does not own a hydroelectric facility assessed an invasive species fee pursuant to [section 2] shall pay a quarterly invasive species fee determined by the department pursuant to subsection (2).

(2) By September 30, 2017, the department shall calculate the quarterly fee for each load-serving utility by multiplying the utility’s 2015 kilowatt-hour sales by the factor calculated pursuant to subsection (3), dividing the product by four, and rounding that product to the nearest whole dollar.

(3) The department shall determine the factor used in subsection (2) by multiplying the fee assessed in [section 2(1)] by four, multiplying that product by the total nameplate capacity of a utility regulated pursuant to Title 69, chapter 8, and then dividing that product by 6,080,144,265.

(4) A utility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.

(5) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

(6) The department may audit the records and other documents of a utility to ensure that the proper fee is paid and collected pursuant to this section.

(7) Money collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

Section 4. Section 17-1-106, MCA, is amended to read:

“17-1-106. Agency recovery of indirect costs – exemption. (1) *Except as provided in 80-7-1004 and subsections (3) and (4) of this section, an agency receiving nongeneral funds shall, in accordance with all applicable regulations, guidelines, or grant rules governing those funds, negotiate indirect cost reimbursement amounts and methodologies so that the agency may recover indirect costs.*

(2) An agency, except for a unit of the university system, that applies for or otherwise receives funds through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify and must receive written approval from its approving authority prior to accepting the funds.

(3) The department of transportation may not recover indirect costs from a local government for the community transportation enhancement program.

(4) The department of transportation may not recover indirect costs for administration of a U.S. federal transit administration grant, including but not limited to grants provided for in 49 U.S.C. 5310, 49 U.S.C. 5311, 49 U.S.C. 5316, and 49 U.S.C. 5317, from a local government, nonprofit organization, or public transportation provider that provides transit services.

(5) An agency, except for a unit of the university system, may not, as part of the grant or contract proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are otherwise allowable costs under the program, except for intra-agency or interagency grants or contracts. For grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed first and direct program costs must be claimed last.

(6) Each agency receiving federal funds and not directly charging a grant or program for the recovery of indirect costs shall submit an indirect cost proposal to the appropriate federal agency. The department shall provide technical assistance to an agency on how to build an indirect cost proposal.

(7) Except as provided for a unit of the university system under 20-25-427, indirect costs recovered by an agency to pay the agency's indirect costs under 17-1-105 must be deposited as provided in 17-1-105. All other indirect costs must be deposited in the fund from which the indirect costs were originally paid."

Section 5. Section 69-3-308, MCA, is amended to read:

"69-3-308. Disclosure of taxes and fees paid by customers of public utility -- automatic rate adjustment and tracking for taxes and fees. (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) ~~The~~ *Except as provided in [section 2],* the commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include:

(A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of 69-3-401 through 69-3-405."

Section 6. Section 80-7-1004, MCA, is amended to read:

“80-7-1004. Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred ~~from the general fund or received~~ from any other lawful source, including but not limited to *fees collected pursuant to [section 1], [section 2], and [section 3]*, gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

~~(5) Any interest and earnings on the account must be retained in the account.~~

~~(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.~~

~~(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account.”~~

Section 7. Section 80-7-1004, MCA, is amended to read:

“80-7-1004. Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred ~~from the general fund or received~~ from any other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

~~(5) Any interest and earnings on the account must be retained in the account.~~

~~(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.~~

~~(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account.”~~

Section 8. Section 80-7-1006, MCA, is amended to read:

“80-7-1006. Departmental responsibilities – reporting. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department’s powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

- (a) public awareness and education;
 - (b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-1015;
 - (c) management, control, and restoration of infested areas; and
 - (d) emergency response.
- (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area established under 80-7-1008 and in the statewide invasive species management area established in 80-7-1015, including the mandatory inspection of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.
- (5) The departments may designate employees to carry out the provisions of this part.
- (6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.
- (7) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.
- (8) (a) *The departments shall report to the environmental quality council at least biannually regarding activities undertaken and expenses incurred in the implementation of this part.*
- (b) *The department of fish, wildlife, and parks shall report to the legislative finance committee at least biannually on expenditures made in the implementation of this part."*

Section 9. Section 80-7-1010, MCA, is amended to read:

"80-7-1010. Invasive species management area – regulation. (1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b) *and provide proof of compliance upon request of a department or its designee.*

(2) After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks."

Section 10. Section 80-7-1016, MCA, is amended to read:

"80-7-1016. Invasive species trust fund. (1) There is an invasive species trust fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(2) The principal of the invasive species trust fund shall forever remain inviolate in an amount of \$10 \$100 million unless appropriated by a vote of three-fourths of the members of each house of the legislature.

(3) Except as provided in 80-7-1013 and ~~subsections subsection (2) and (4)~~ of this section, money deposited in the invasive species trust fund may not be appropriated until the principal reaches \$10 \$100 million.

(4) On July 1 of each fiscal year, the principal of the invasive species trust fund in excess of \$10 \$100 million and the interest and income generated from

the trust fund, excluding unrealized gains and losses, must be deposited in the invasive species ~~grant~~ account established in ~~80-7-1017~~ *80-7-1004*.

(5) Deposits to the principal of the trust fund may include but are not limited to grants, gifts, transfers, bequests, or donations from any source.

~~(6) If the invasive species trust fund is terminated, the money in the fund must be divided between all counties according to rules adopted by the department of natural resources and conservation for that purpose."~~

Section 11. Section 80-7-1017, MCA, is amended to read:

"80-7-1017. Invasive species grant account. (1) There is an invasive species grant account in the state special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in the account must be used pursuant to 80-7-1018 and this section.

(2) Deposits to the account may include but are not limited to grants, gifts, transfers, bequests, donations, *and* appropriations from any source; ~~and deposits made pursuant to 80-7-1016.~~

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(4) Money deposited in the account may be used for costs incurred by the department of natural resources and conservation to administer the provisions of ~~80-7-1016 through~~ 80-7-1018. Except for startup costs incurred in the first year of the program, the administrative costs in any fiscal year, including but not limited to personal services and operations, may not exceed 10% of the total amount of grants and contracts awarded pursuant to 80-7-1018 in the previous fiscal year."

Section 12. Section 80-7-1018, MCA, is amended to read:

"80-7-1018. Invasive species grant program – criteria – rulemaking.

(1) Money deposited in the invasive species grant account established in 80-7-1017 may be expended by the department of natural resources and conservation through grants to or contracts with communities or local, state, tribal, or other entities for invasive species management.

(2) For the purposes of this section, the term "invasive species management" includes public education and planning, development, implementation, or continuation of a program or project to prevent, research, detect, control, or, where possible, eradicate invasive species.

(3) A grant or contract may be awarded under this section for demonstration of and research and public education on new and innovative invasive species management.

(4) In making grant and contract awards under this section, the department of natural resources and conservation shall give preference to local governments, collaborative stakeholders, and community groups that it determines can most effectively implement programs on the ground.

(5) If the governor appoints an advisory council on invasive species, the department of natural resources and conservation shall consider recommendations by the advisory council for awards made under this section.

(6) The department of natural resources and conservation is not eligible to receive grants and contracts under this section.

(7) The department of natural resources and conservation may accept federal funds for use pursuant to this section.

(8) Any funds awarded under this section, regardless of when they were awarded, that are not fully expended upon termination of a contract or an extension of a contract, not to exceed 1 year, must revert to the department of natural resources and conservation and be deposited in the invasive species grant account established in 80-7-1017. The department of natural resources

and conservation shall use any reverted funds to make future awards pursuant to this section.

(9) The department of natural resources and conservation may adopt rules to administer the provisions of ~~80-7-1016 through 80-7-1018~~ *this section*."

Section 13. Section 87-2-514, MCA, is amended to read:

"87-2-514. Nonresident relative of resident allowed to purchase nonresident licenses at reduced cost – definitions. (1) For the purposes of this section, the following definitions apply:

(a) "Nonresident relative of a resident" means a person born in Montana who is the natural or adoptive child, sibling, or parent of a resident but is not a resident.

(b) "Resident" means a resident as defined in 87-2-102.

(2) Except as otherwise provided in this chapter, a nonresident relative of a resident who meets the qualifications of subsection (5) may purchase the following at one-half the cost:

(a) a Class B nonresident fishing license;

(b) a Class B-1 nonresident upland game bird license;

(c) a Class B-10 nonresident big game combination license; and

(d) a Class B-11 nonresident deer combination license.

(3) The nonresident relative of a resident shall also purchase a nonresident wildlife conservation license as prescribed in 87-2-202, ~~and a nonresident base hunting license as prescribed in 87-2-116 if the nonresident relative of a resident purchases a hunting license, and a nonresident aquatic invasive species prevention pass if the nonresident purchases a fishing license.~~

(4) Class B-10 and Class B-11 licenses sold pursuant to subsection (2) are not included in the limit on the number of available Class B-10 and Class B-11 licenses issued pursuant to 87-2-505 and 87-2-510.

(5) To qualify for a license pursuant to subsection (2), a nonresident relative of a resident shall apply at any department regional office or at the department's state office in Helena and present proof of the following:

(a) a birth certificate verifying the applicant's birth in Montana or documentation that the applicant was born to parents who were residents at the time of birth;

(b) evidence that the person previously held a Montana resident hunting or fishing license or has passed a hunter safety course in Montana pursuant to 87-2-105; and

(c) proof that the applicant is a nonresident relative of a resident.

(6) Of the fee paid for a hunting license purchased pursuant to subsection (2), 28.5% must be deposited in the account established in 87-1-290."

Section 14. Section 87-2-711, MCA, is amended to read:

"87-2-711. Class AAA–combination sports license. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5 licenses and resident conservation licenses as prescribed in 87-2-202 upon payment of the sum of \$70 or, if the resident is a service member eligible for a combination sports license pursuant to 87-2-817(2), upon payment of the resident base hunting license fee provided for in 87-2-116 *and purchase of the resident aquatic invasive species prevention pass pursuant to [section 1]*; or

(b) a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 tag upon payment of the sum of \$85.

(2) The department may furnish each holder of a combination sports license an appropriate decal.”

Section 15. Section 87-2-816, MCA, is amended to read:

“87-2-816. Licenses for legion of valor members – purple heart awardees. (1) A resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a wildlife conservation license issued by the department.

(2) A resident, as defined in 87-2-102, awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with *the purchase of* a wildlife conservation license ~~issued by the department pursuant to 87-2-202 and a resident aquatic invasive species prevention pass pursuant to [section 1].~~

(3) A nonresident awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with *the purchase of* a wildlife conservation license ~~issued by the department pursuant to 87-2-202 and a nonresident aquatic invasive species prevention pass pursuant to [section 1]~~ during expeditions arranged for the nonresident by a nonprofit organization that uses fishing and hunting as part of the rehabilitation of disabled veterans.

(4) The department’s general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for license costs associated with the fishing and game bird hunting privileges granted pursuant to subsections (2) and (3) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.”

Section 16. Section 87-2-817, MCA, is amended to read:

“87-2-817. Licenses for service members. (1) A veteran or a disabled member of the armed forces who meets the qualifications in 87-2-803(9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of the license fee. Licenses issued to veterans or disabled members of the armed forces under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (2)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a Class A-6 black bear tag, upon payment of the resident base hunting license fee in 87-2-116 *and the purchase of the resident aquatic invasive species prevention pass pursuant to [section 1]*, in the license year that the member returns from military service or in the year following the member’s return, based on the member’s election, and in any of the 4 years after the member’s election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (2)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member’s DD form 214 verifying the member’s release or discharge from active duty. The applicant is responsible for providing documentation showing that the

applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (2)(a) and provides the documentation required in subsection (2)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (2) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(3) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return."

Section 17. Section 87-2-903, MCA, is amended to read:

"87-2-903. (Temporary) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses *and aquatic invasive species prevention passes* and from donations received pursuant to 87-1-293, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term "transaction" includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to 87-1-293 or *the sale of aquatic invasive species prevention passes pursuant to [section 1]*.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses *and aquatic invasive species prevention passes* and from donations received pursuant to 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed.

Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Terminates June 30, 2019--sec. 7, Ch. 83, L. 2013.)

87-2-903. (Effective July 1, 2019) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses *and aquatic invasive species prevention passes*, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. *The term does not include the sale of aquatic invasive species prevention passes pursuant to [section 1].*

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses *and aquatic invasive species prevention passes*, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section.”

Section 18. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 2 and 3].

Section 19. Effective dates. (1) Except as provided in subsection (2), [this act] is effective May 15, 2017.

(2) [Section 7] is effective March 1, 2020.

Section 20. Applicability. [Sections 2 and 3] apply to quarterly periods beginning July 1, 2017.

Section 21. Termination. (1) [Sections 1, 6, 13, 14, 15, 16, and 17] terminate February 29, 2020.

(2) [Sections 4 and 7(6)] terminate June 30, 2027.

(3) [Sections 2 and 3] and the references to [sections 2 and 3] in [section 6] terminate June 30, 2019.

Approved May 18, 2017

CHAPTER NO. 388

[SB 22]

AN ACT REVISING LAWS RELATED TO TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP WHEN A CHILD IS BORN AS THE RESULT OF SEXUAL INTERCOURSE WITHOUT CONSENT OR SEXUAL ASSAULT; PROVIDING A PROCESS TO TERMINATE THE LEGAL RELATIONSHIP; PROVIDING THAT THE OBLIGATION TO PAY CHILD SUPPORT IS NOT RELIEVED BY THE TERMINATION OF PARENTAL RIGHTS; AND AMENDING SECTION 41-3-607, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Petition for termination – criteria – process. (1) A district court may order a termination of the parent-child legal relationship after the filing of a petition pursuant to this section alleging the factual grounds for termination as provided for in subsection (2).

(2) Grounds for termination pursuant to this section exist when the parent of a child:

(a) is convicted of a felony in which sexual intercourse occurred or is a minor adjudicated a delinquent youth because of an act that, if committed by an adult, would be a felony in which sexual intercourse occurred and, as a result of the sexual intercourse, the child is born; or

(b) at a fact-finding hearing is found by clear and convincing evidence, except as provided in the federal Indian Child Welfare Act, if applicable, to have committed an act of sexual intercourse without consent, sexual assault, or incest that caused the child to be conceived.

(3) The court's order must state the reasons for the decision.

(4) The victim of the crime or act may file a petition pursuant to this section. If the victim is a minor, the victim's parent or guardian may file a petition on the victim's behalf.

(5) The respondent to the petition has the right to counsel in all proceedings held pursuant to the petition.

(6) Before termination of the parent-child legal relationship may be ordered, the court shall determine whether the provisions of [section 2] and [section 3] have been followed.

(7) There is no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.

(8) (a) An order for the termination of the parent-child legal relationship divests the child and the parent of all legal rights, powers, immunities, duties, and obligations with respect to each other as provided in Title 40, chapter 6, part 2, and Title 41, chapter 3, part 2, except:

(i) the right of the child to inherit from the parent; and

(ii) that nothing in this section may be construed to relieve the parent whose rights are terminated as provided in [sections 1 through 3] of any child support obligations as provided in Title 40, chapters 4 and 5.

(b) An order or decree entered pursuant to this part may not disentitle a child to any benefit due to the child from a third person, including but not limited to an Indian tribe, an agency, a state, or the United States.

Section 2. Service of process – service by publication – effect. (1) Except as otherwise provided in this chapter, service of process must be made as provided in the Montana Rules of Civil Procedure.

(2) If a person cannot be served personally or by certified mail, the person may be served by publication as provided in [section 3]. Publication constitutes conclusive evidence of service, and a hearing must then proceed at the time and date set, with or without the appearance of the person served by publication. During or after the hearing, the court may issue an order that will adjudicate the interests of the person served by publication.

(3) If the parent cannot be found prior to the hearings allowed by [section 1], the court may grant the petition as filed or may order the person filing the petition to continue to attempt to locate the person whose parental rights are subject to termination through service by publication.

Section 3. Service by publication – summons – form. (1) Before service by publication is authorized in a proceeding under [sections 1 through 3], the person filing the petition pursuant to [section 1(4)] shall file with the court an affidavit stating that, after due diligence, the parent whose rights are subject to termination cannot be identified or found and stating the diligent efforts made to identify, locate, and serve the person. The affidavit is sufficient evidence of the diligence of any inquiry made by the person filing the petition. The affidavit may be combined with another affidavit filed by the person filing the petition. Upon complying with this subsection, the person filing the petition may obtain an order for the service to be made on the party by publication. The order may be issued by either the judge or the clerk of the court.

(2) Service by publication must be made by publishing notice three times, once each week for 3 successive weeks:

(a) in a newspaper in a community in which the publication can reasonably be calculated to be seen by the person whose parental rights are subject to termination, based on the last-known address or whereabouts, if known, of the person if in the state of Montana; or

(b) if no last-known address exists, if the last-known address is outside Montana, or if the identity of the person whose parental rights are subject to termination is unknown, in a newspaper in the county in which the action is pending, if a newspaper is published in the county, or, if a newspaper is not published in the county, in a newspaper published in an adjoining county and having a general circulation in the county.

(3) Service by publication is complete on the date of the last publication required by subsection (2).

(4) A summons required under this chapter must:

(a) be directed to the parent whose parental rights are subject to termination; and

(b) be signed by the clerk of court, be under the seal of the court, and contain:

(i) the name of the court and the cause number;

(ii) the initials of the child who is the subject of the proceedings;

(iii) the name of the person filing the petition pursuant to [section 1(4)];

(iv) the timeframe within which an interested person shall appear;

(v) a statement in general terms of the nature of the proceedings, including the date and place of birth of the child, the date and place of the hearing, and the phone number of the clerk of the court in which the hearing is scheduled; and

(vi) notification apprising the person served by publication that failure to appear at the hearing will constitute a denial of interest in the child, which may result, without further notice of the proceeding or any subsequent proceeding, in judgment by default being entered for the relief requested in the petition.

Section 4. Section 41-3-607, MCA, is amended to read:

“41-3-607. Petition for termination – separate hearing – no jury trial. (1) *The Except as provided in [sections 1 through 3], the termination of a parent-child legal relationship may be considered only after the filing of a petition pursuant to 41-3-422 alleging the factual grounds for termination pursuant to 41-3-609.*

(2) If termination of a parent-child legal relationship is ordered, the court may:

(a) transfer permanent legal custody of the child, with the right to consent to the child’s adoption, to:

(i) the department;

(ii) a licensed child-placing agency; or

(iii) another individual who has been approved by the department and has received consent for the transfer of custody from the department or agency that has custody of the child; or

(b) transfer permanent legal custody of the child to the department with the right to petition for appointment of a guardian pursuant to 41-3-444.

(3) If the court does not order termination of the parent-child legal relationship, the child’s prior legal status remains in effect until further order of the court.

(4) A guardian ad litem must be appointed to represent the child’s best interests in any hearing determining the involuntary termination of the parent-child legal relationship. The guardian ad litem shall continue to represent the child until the child is returned home or placed in an appropriate permanent placement. If a respondent parent is a minor, a guardian ad litem must be appointed to serve the minor parent in addition to any appointed or assigned counsel requested by the minor parent.

(5) There is no right to a jury trial at proceedings held to consider the termination of a parent-child legal relationship.”

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 41, and the provisions of Title 41 apply to [sections 1 through 3].

Approved May 19, 2017

CHAPTER NO. 389

[SB 55]

AN ACT REVISING LAWS RELATED TO LICENSING, FEES, INSPECTIONS, AND PENALTIES FOR PLANT NURSERIES; REVISING DEFINITIONS; PROVIDING FOR NURSERY LICENSE FEES BASED ON GROSS ANNUAL SALES; EXPANDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 80-7-105, 80-7-106, 80-7-108, 80-7-109, 80-7-110, 80-7-123, 80-7-133, AND 80-7-135, MCA; REPEALING SECTION 80-7-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-105, MCA, is amended to read:

“80-7-105. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Firm” means an individual, company, partnership, association, or corporation.

(2) “Landscape service” means a firm that buys, sells, or resells nursery stock.

(3) “Nursery” means the business or location where nursery stock is grown ~~or offered for sale or resale or as part of a landscape service, offered for sale, or distributed.~~

(4) “Nursery stock” means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, ~~cut trees and their products;~~ and turf or sod grass. ~~The following plants~~ *Certain plants and plant materials intended for human or animal consumption and not intended for planting* may not be considered nursery stock, *including the following:*

(a) ~~field crop plants and seeds~~ *commodity plants and their seeds;*

(b) pasture grasses;

(c) cut plants not for propagation;

(d) fruits or vegetables for human or animal consumption;

(e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and

(f) plant debris for disposal or processing.

(5) ~~“Nursery stock certification” means the process by which the nursery stock or other plants have been inspected and found to meet certification standards established by department rule.~~

(6)(5) “Plant dealer” means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(7)(6) “Plant inspection certificate” means a document issued by the department or the plant pest regulatory agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(8)(7) “Plant pest” means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101(8)(a)(i), or other exotic weeds are defined as plant pests.

(9) ~~“Small plant vendor” means a Montana firm that is engaged in the business of selling or distributing nursery stock, including coniferous Christmas decorations, and that:~~

(a) ~~grows in Montana the nursery stock offered for sale or distribution; and~~

(b) ~~has gross annual sales of less than \$1,000 in a calendar year.”~~

Section 2. Section 80-7-106, MCA, is amended to read:

“80-7-106. License required – application and payment of license fee – exemption. (1) (a) Except as provided in subsection (1)(b), a firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* engaging in the business of selling or distributing nursery stock in this state shall obtain a license from the department *for each location*. ~~If the firm, nursery, plant dealer, or small plant vendor is required to be licensed and sells or distributes nursery stock, the firm, nursery, plant dealer, or small plant vendor shall obtain a license for each taxpayer identification number the firm, nursery, plant dealer, or small plant vendor uses when selling or distributing nursery stock.~~

(b) A firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* is not required to obtain a license in Montana if the firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service*:

(~~†~~) is licensed as a nursery in another state and the state in which the firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* is licensed grants nonresident licenses to residents of this state on the same basis; ~~or~~

(ii) ~~operates only in Montana and has less than \$1,000 in gross annual sales of nursery stock.~~

(2) The license must be in the name of the firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* seeking the license and expires on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall provide information that the department finds necessary to carry out the provisions and purposes of this chapter and in the form determined by rule by the board of review established in 30-16-302.

(3) (a) A firm, nursery, plant dealer, or ~~small plant vendor~~ that earns at least \$1,000 but less than \$5,000 in gross annual sales of nursery stock shall pay a license fee of \$25.

(b) A firm, nursery, plant dealer, or ~~small plant vendor~~ that earns \$5,000 or more in gross annual sales of nursery stock shall pay a license fee of \$100.

(4) The department may seek verification from the department of revenue as to whether a firm, nursery, plant dealer, or ~~small plant vendor~~ has met the income thresholds established in this section.

(3) (a) *The license fees for each location for a firm, nursery, or plant dealer are as follows:*

<i>Gross annual sales of nursery stock:</i>	<i>Fee range:</i>
<i>not more than \$5,000</i>	<i>\$25 to \$35</i>
<i>\$5,001 to \$75,000</i>	<i>\$135 to \$185</i>
<i>\$75,001 to \$150,000</i>	<i>\$200 to \$250</i>
<i>\$150,001 to \$250,000</i>	<i>\$300 to \$350</i>
<i>Over \$250,000</i>	<i>\$400 to \$450</i>

(b) *A landscape service shall pay a license fee of not less than \$150 or more than \$200. A landscape service that sells nursery stock shall pay a license fee for either a landscape service or a nursery, whichever is greater.*

(c) *A sod farmer shall pay a license fee of not less than \$220 or more than \$270.*

(d) *The department may adjust by rule a license fee within the fee range described in this subsection (3) to maintain funding for this part. When calculating a license fee, the department shall adjust gross sales down to the nearest dollar.*

(~~5~~)(4) A new applicant or a firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* failing to renew a license for *any location* on or before the annual anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for ~~each~~ *the license for the location*.

(~~6~~)(5) The fees required by this section may be paid by credit card ~~and may be discounted for payment processing charges paid by the department to a third party."~~

Section 3. Section 80-7-108, MCA, is amended to read:

"80-7-108. Nursery stock inspection -- fees inspections. (~~†~~) The department:

(a)(1) may enter the premises of a licensed firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* during regular business hours for the purpose of inspecting nursery stock or other materials for possible plant pests or for determining licensure compliance; and

(b)(2) shall, pursuant to rules promulgated by the department, determine the schedule, the need for inspections based on complaints received and the department's assessment of risk to the state from potential plant pests, and the expected amount of time for the inspections.

(2) ~~A firm, nursery, plant dealer, or small plant vendor may request the inspection of nursery stock, plants, or other materials by giving the department 5 days' notice prior to the time when the nursery stock, plants, or other materials are ready for inspection. The firm, nursery, plant dealer, or small plant vendor shall pay a fee to the department for an inspection conducted pursuant to this section. The fee must cover the actual costs of inspection, surveys, and other services performed by the department and may not be less than \$42 per hour or more than \$50 per hour as established by department rule.~~

(3) ~~The department may issue a plant inspection certificate based on the results of a nursery stock or other plant inspection or inspection survey."~~

Section 4. Section 80-7-109, MCA, is amended to read:

"80-7-109. Duty to notify department of infestation. A firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* with nursery stock or other materials that are infected or infested with plant pests shall notify the department. The firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* shall comply with the instructions of the department for the control of the plant pests."

Section 5. Section 80-7-110, MCA, is amended to read:

"80-7-110. Removal of nursery stock – assessment of costs. (1) If a firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* that owns nursery stock or other materials infected or infested with any injurious plant pest fails to comply with the instructions of the department for the destruction or control of the injurious plant pest or the destruction of the infested or infected nursery stock or other material within the time specified by the department, the department may condemn, remove, or destroy the nursery stock or other material or treat it with a proper remedy at the expense of the owner.

(2) ~~If an owner fails to pay the actual cost of the removal, treatment, or destruction within 30 days after notice has been mailed to the owner at the owner's last-known post-office address and to any purchaser of the property under contract for deed at the purchaser's last-known post-office address, the cost becomes a lien on the land of the owner and must be added by the county treasurer to the taxes upon the property and collected as other taxes."~~

Section 6. Section 80-7-123, MCA, is amended to read:

"80-7-123. Nursery account – investment of funds. (1) There is an account in the state special revenue fund. All inspection and license fee revenue and reimbursements for costs authorized under 80-7-106, 80-7-108, 80-7-110, 80-7-122, 80-7-135, and this section must be deposited in this account. Revenue in the account must be used for the purposes and provisions of this part.

(2) Revenue received under 80-7-106, 80-7-108, 80-7-110, 80-7-122, 80-7-135, and this section not immediately required for the ~~purpose~~ *purposes* of 80-7-106, 80-7-108, 80-7-110, 80-7-122, 80-7-135, and this section must be invested in accordance with the unified investment program established in Title 17, chapter 6, part 2. Income from the investments must be deposited in the account."

Section 7. Section 80-7-133, MCA, is amended to read:

"80-7-133. Acts made unlawful – penalty. (1) It is unlawful for a firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* to:

(a) fail to properly identify nursery stock offered for sale. Identification must include but is not limited to the scientific name, common name, and variety, except with regard to mixed annual plantings. Each nursery plant offered for sale as a separate plant must be identified. A single means of identification is allowed on each bundle of bare root seedlings, liners, or hedging grade nursery stock.

(b) falsely represent or misrepresent the name, age, variety, or class of any nursery stock sold or offered for sale;

(c) falsely represent or state that any nursery stock offered for sale, sold, or delivered was grown in a certain location, when in fact the nursery stock was grown in another location;

(d) deceive or defraud any firm in the sale of any nursery stock by substituting inferior or different varieties or ages from those ordered;

(e) bring into this state, offer for sale or distribution within this state, or ship, sell, or deliver upon any sale any nursery stock that is infected or infested with a plant pest dangerous to the *agricultural or* horticultural interests of the state or that violates any federal or state quarantine; or

(f) sell or distribute nursery stock, cut decorative plants, or aquatic plants declared to be noxious weeds as defined in 7-22-2101.

(2) In case of misrepresentation, false representation, deceit, fraud, substitution, or sale and distribution of noxious weeds, the firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* is subject to punishment as provided in 80-7-135 and is liable to a party damaged or injured to the extent of all damages sustained, which may be recovered in a civil action in any court of competent jurisdiction."

Section 8. Section 80-7-135, MCA, is amended to read:

"80-7-135. Penalty for violation. (1) A firm, nursery, plant dealer, or ~~small plant vendor~~ *landscape service* that violates or aids in the violation of a provision of this part or of the rules, orders, or quarantines of the department adopted under Title 2, chapter 4, and this part commits a civil offense and is subject to a civil penalty of not more than \$1,000 for each violation.

(2) Assessment of a civil penalty may be made in conjunction with another warning, order, or administrative action authorized by this chapter. A civil penalty collected under this section must be deposited in the nursery account established in 80-7-123 for *response activities of the department*, education, training, research, and development for the nursery industry pursuant to rules established by the department.

(3) The department shall establish by rule:

(a) a penalty schedule that establishes the types of penalties and the amounts, not to exceed \$1,000, for initial and subsequent offenses; and

(b) other matters necessary for the administration of civil penalties.

(4) Sections 80-7-105, 80-7-106, 80-7-108, 80-7-109, ~~80-7-122~~, 80-7-123, and this section may not be construed as requiring the department or its agents to report violations of this part when the department believes that the public interest will be best served by a suitable notice of warning."

Section 9. Appropriation. (1) There is appropriated \$25,570 in each year of the biennium beginning July 1, 2017, from the special revenue account established in 80-7-123 to the department of agriculture for the purpose of funding administrative costs associated with the activities of the nursery program.

(2) The legislature intends that the appropriation in this section be considered a part of the ongoing base for the next legislative session.

Section 10. Repealer. The following section of the Montana Code Annotated is repealed:

80-7-122. Nursery stock certification.

Section 11. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is

invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Effective date. [This act] is effective on passage and approval.

Approved May 19, 2017

CHAPTER NO. 390

[SB 59]

AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; REQUIRING THE OFFICE OF COURT ADMINISTRATOR TO CREATE A PRETRIAL PROGRAM; REQUIRING THE BOARD OF CRIME CONTROL TO CREATE A PROSECUTION DIVERSION GRANT PROGRAM; GRANTING THE BOARD RULEMAKING AUTHORITY TO ADMINISTER THE PROSECUTION DIVERSION PROGRAM; ALLOWING A COURT TO USE INFORMATION FROM A PRETRIAL RISK ASSESSMENT TOOL WHEN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED OR DETAINED; CREATING AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE LEGISLATION; REQUIRING THE QUALITY ASSURANCE UNIT OF THE DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM EVALUATIONS; REQUIRING THE DEPARTMENT TO ADOPT AND MAINTAIN AN INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS; REQUIRING THE COLLECTION OF CERTAIN DATA AND THE PROVISION OF CERTAIN REPORTS; ELIMINATING THE REQUIREMENT THAT A JUDGE OR JUSTICE OF THE PEACE REPORT DRUG USERS TO THE COUNTY ATTORNEY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-1-702 AND 46-9-109, MCA; REPEALING SECTION 46-9-203, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Pretrial program – rulemaking. (1) Within the limits of available funds, the office of court administrator shall develop and administer a pretrial program for felony defendants that includes the use of:

- (a) a validated pretrial risk assessment tool; and
- (b) a dangerousness or lethality assessment for individuals charged with an offense of partner or family member assault.

(2) The office of court administrator may use program funds to:

- (a) develop, implement, and administer the pretrial program; and
- (b) make allocations to counties or nonprofit organizations contracting with a county to provide pretrial services.

(3) Allocated funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial felony defendants.

(4) In administering the pretrial program, the office shall:

- (a) identify priorities for funding services and activities and the criteria for the allocation of program funds, including that courts accepting funds must use a validated risk assessment tool to assign release conditions and determine placement options;

(b) monitor the expenditure of funds by counties and organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section;

(d) establish an advisory council that includes local and district court judges and other stakeholders to provide guidance to the office; and

(e) develop policies and procedures necessary to implement this section, subject to approval of the supreme court.

(5) (a) Funds available under subsection (1) consist of state appropriations and federal funds received by the office for the purposes of administering the pretrial program or any funds received pursuant to subsection (5)(b).

(b) The office may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

Section 2. Prosecution diversion program – rulemaking. (1) Within the limits of available funds, the board of crime control shall develop and administer a prosecution diversion grant program to encourage local adoption of prosecution diversion programs under 46-16-130.

(2) Grant funds may be used for staff, to provide supervision, or to contract for program services for defendants in the program. A county attorney or a nonprofit organization contracting with a county attorney may be eligible for a grant.

(3) In administering the prosecution diversion program, the board shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement this section.

(4) (a) Grants available under subsection (1) consist of state appropriations and federal funds received by the board for the purposes of administering the prosecution diversion program or any funds received pursuant to subsection (4)(b).

(b) The board may accept gifts, grants, and donations from other public or private sources, which must be used within the scope of this section.

Section 3. Montana criminal justice oversight council – duties – membership. (1) There is a Montana criminal justice oversight council. The council consists of 15 members as follows:

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one member selected by the chief justice of the Montana supreme court;

(c) the director of the department of corrections or the director's designee;

(d) an employee of the department of corrections selected by the director who has expertise in data collection and reporting;

(e) one member selected by the director of the department of public health and human services who has expertise in behavioral health treatment services;

(f) the executive director of the board of crime control or the director's designee;

(g) a county sheriff appointed by the attorney general; and

(h) the following individuals appointed by the governor:

(i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

- (ii) one member of the board of pardons and parole;
- (iii) one representative of crime victims; and
- (iv) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(2) The director of the department of corrections or the director's designee shall serve as presiding officer.

(3) The council shall:

- (a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;

- (b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations, including data related to the programs established in [sections 1 and 2];

- (c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms;

- (d) request, receive, and review data and report on performance outcome data relating to criminal justice reform; and

- (e) receive reports required by [section 4] to be produced by the department of corrections.

(4) Data evaluation performed by the council must:

- (a) assess the current electronic records utilized by criminal justice agencies;

- (b) review and list all variables collected in each agency's information management system;

- (c) establish a baseline for historical data comparisons;

- (d) determine whether data is linked to specific offenders through a unique identifying factor;

- (e) review archival data and agencies' data retention policies;

- (f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

- (g) review any established data protocols for pretrial services;

- (h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

- (i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(5) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

(6) The council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature, as provided in 5-11-210. The report must include:

- (a) a description of the council's proceedings since the previous report;

- (b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;

(c) a description of performance measures and outcomes related to criminal justice reforms; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.

(7) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(8) The council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(9) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(10) Appointments made under subsection (1) must be made within 60 days after [the effective date of this section]. A vacancy on the council must be filled in the manner of the original appointment.

(11) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(12) The council shall report to the law and justice interim committee and the legislative finance committee as requested.

Section 4. Department of corrections to report on criminal justice reinvestment legislation impacts. In addition to any data or reports required by the Montana criminal justice oversight council pursuant to [section 3], the department of corrections shall:

(1) submit an annual report to the Montana criminal justice oversight council by August 15 of each year. The report must include:

(a) the impact of any legislation related to recommendations from the commission on sentencing established in Chapter 343, Laws of 2015;

(b) the extent to which the department has established and met implementation goals and projections concerning the prison population, recidivism rate, and other key public safety metrics; and

(c) the results of initial and ongoing program evaluations that the department is required by [section 6] to conduct, including any identified program deficiencies and the department's plan to correct those deficiencies.

(2) report to the legislature by January 1 of each year on the amount of savings generated and on the prison population impact under any legislation resulting from the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015, for the purpose of tracking the progress toward meeting the impact estimates and goals of the legislation.

Section 5. Supervision responses grid – report. (1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to:

(a) request a warrant or arrest without a warrant;

- (b) use a 72-hour detention;
- (c) initiate an intervention hearing;
- (d) seek departmental approval to use up to 90-day interventions; and
- (e) exhaust and document appropriate graduated violation responses before initiating the revocation process.

(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody.

(3) The department shall:

- (a) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole;

- (b) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, county detention center personnel, contracted service providers, and other interested personnel;

- (c) review the grid every 5 years to ensure that it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state;

- (d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;

- (e) collect data relating to placement decisions based on the grid; and

- (f) aggregate collected data and provide a report to the law and justice interim committee each biennium.

Section 6. Quality assurance unit – program standards – evaluation – cooperation with department of public health and human services – report. (1) There is a quality assurance unit in the department of corrections.

(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:

- (a) adopt an evidence-based program evaluation tool that measures how closely correctional programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

- (b) conduct evaluations of programs to reduce recidivism that are funded by the state; and

- (c) enforce standards to ensure that programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.

(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for quality assurance in behavioral health programs or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) The department shall:

- (a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee each interim, including any identified program deficiencies and the department's plan to correct those deficiencies.

(7) After [the effective date of this section], the department shall ensure that contracts signed or renewed with providers contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices.

Section 7. Section 3-1-702, MCA, is amended to read:

“3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) report annually to the law and justice interim committee and at the beginning of each regular legislative session report to the house appropriations subcommittee that considers general government on the status of development and procurement of information technology within the judicial branch, including any changes in the judicial branch information technology strategic plan and any problems encountered in deploying appropriate information technology within the judicial branch. The court administrator shall, to the extent possible, provide that current and future applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse court diversion pilot project provided in 41-3-305;

(8) *administer the pretrial program provided for in [section 1];*

(8)(9) administer the judicial branch personnel plan; and

(9)(10) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)”

Section 8. Section 46-9-109, MCA, is amended to read:

“46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance.

(2) In determining whether the defendant should be released or detained, the court *may use a validated pretrial risk assessment tool and* shall take into account the available information concerning:

(a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence;

~~(b) the weight of the evidence against the defendant;~~

(e)(b) the history and characteristics of the defendant, including:

(i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse,

criminal history, and record concerning the appearance at court proceedings; and

(ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

(d)(c) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; and

(e)(d) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required.

(3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community."

Section 9. Repealer. The following section of the Montana Code Annotated is repealed:

46-9-203. Report to county attorney concerning drug users.

Section 10. Appropriation. There is appropriated \$28,000 from the general fund to the department of corrections for the biennium beginning July 1, 2017, for the purposes of funding the council as provided in [section 3].

Section 11. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 12. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 3, chapter 1, part 7, and the provisions of Title 3, chapter 1, part 7, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 2].

(3) [Section 5] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section 5].

(4) [Section 6] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 6].

Section 13. Coordination instruction. If both Senate Bill No. 63 and [this act] are passed and approved and if Senate Bill No. 63 contains a section amending 53-1-203, then the section amending 53-1-203 is void and any references in Senate Bill No. 63 to the "incentives and interventions grid adopted under 53-1-203" must be changed to the "incentives and interventions grid adopted under [section 5 of Senate Bill No. 59].

Section 14. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation for the purposes of funding [section 3] prior to being transmitted to the governor, then [section 3 and section 4(1)] are void.

(2) If the appropriation in [section 10] is vetoed, then [section 3 and section 4(1)] are void.

(3) If House Bill No. 2 is passed and approved and if it does not include funding for the pretrial program established in [section 1], then [sections 1, 7, and 8] are void.

Section 15. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1, 2, 7, 8, and 10] are effective July 1, 2017.

Section 16. Termination. [Sections 3 and 4] terminate June 30, 2019.
Approved May 19, 2017

CHAPTER NO. 391

[SB 63]

AN ACT REVISING LAWS RELATED TO SUPERVISION OF PROBATIONERS AND OF DEFENDANTS SERVING A DEFERRED OR SUSPENDED SENTENCE; REVISING THE PROCESS TO REVOKE A DEFERRED OR SUSPENDED SENTENCE FOR VIOLATIONS OF CONDITIONS; ALLOWING A PROBATION AND PAROLE OFFICER TO FILE A PETITION TO TERMINATE THE TIME REMAINING ON A DEFERRED OR SUSPENDED SENTENCE; CREATING A DEADLINE AFTER WHICH THE DEFERRED OR SUSPENDED SENTENCE IS TERMINATED; CREATING A SCHEDULE FOR CONDITIONAL DISCHARGE RECOMMENDATIONS FOR PROBATIONERS; REVISING PROCEDURES FOR AN INFORMAL PROBATION VIOLATION HEARING; REQUIRING THE DEPARTMENT OF CORRECTIONS TO IMPLEMENT AN INCENTIVES AND INTERVENTIONS GRID; REQUIRING THE DEPARTMENT TO PROVIDE TRAINING RELATED TO THE INCENTIVES AND INTERVENTIONS GRID; PROVIDING DEFINITIONS; AMENDING SECTIONS 46-18-203, 46-18-208, 46-23-1011, 46-23-1015, AND 53-1-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-203, MCA, is amended to read:

“46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), *and describing the exhaustion and documentation in the offender’s file of appropriate violation responses according to the incentives and interventions grid adopted under 53-1-203*, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay *and no more than 60 days after arrest*, the offender must be brought before the judge, and *at least 10 days prior to the hearing* the offender must be advised of:

- (a) the allegations of the petition;
- (b) the opportunity to appear and to present evidence in the offender’s own behalf;

(c) the opportunity to question adverse witnesses; and
(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

(a) the offender admits the allegations and waives the right to a hearing; or
(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

(i) the terms and conditions of the suspended or deferred sentence; or
(ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4).

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence *and the violation is not a compliance violation*, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions, *which may include placement in:*

(A) *a secure facility designated by the department for up to 9 months; or*

(B) *a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;*

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, *consult the records and recollection of the probation and parole officer, and either expressly allow all or part of the elapsed time served without any record or recollection of violations as a credit against the sentence or reject all or part of the time as a credit. The If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the judge's determination in the order.* Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If ~~a~~ the judge finds that ~~an~~ the offender has not violated a term or condition of a suspended or deferred sentence, ~~that~~ the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) (a) *Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred*

sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have not been exhausted and documented in the offender's file, the judge shall notify the department and refer the matter back to the hearings officer.

(b) Except as provided in subsection (8)(c), if the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the appropriate violation responses under the incentives and interventions grid have been exhausted and documented in the offender's file, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions; or

(ii) continue the suspended or deferred sentence with modified or additional terms and conditions, which may include placement as provided in subsection (7)(a)(ii).

(c) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, that the violation is a compliance violation, and that the offender's conduct indicates that the offender will not be responsive to further efforts under the incentives and interventions grid, the judge may sentence the offender as provided in subsection (7).

(8)(9) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(10) All sanction and placement decisions must be documented in the offender's file.

(11) As used in this section, the following definitions apply:

(a) "Absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful.

(b) "Compliance violation" means a violation of the conditions of supervision that is not:

(i) a new criminal offense;

(ii) possession of a firearm in violation of a condition of probation;

(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;

(iv) absconding; or

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(9)(12) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

Section 2. Section 46-18-208, MCA, is amended to read:

"46-18-208. Termination of remaining portion of deferred or suspended sentence – petition. (1) When imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor, or the defendant, or the defendant's probation and parole officer may file a petition to terminate the time remaining on the sentence if:

(a) in the case of a deferred imposition of sentence, the defendant has served 2 years or one-half of the sentence, whichever is less, and has demonstrated compliance with supervision requirements; or

(b) in the case of a suspended sentence:

(i) the defendant has served 3 years or two-thirds of the time suspended, *whichever is less*; and

(ii) the defendant has been granted a conditional discharge from supervision under 46-23-1011 and has demonstrated compliance with the conditional discharge for a minimum of 12 months.

(2) The court may hold a hearing on the petition on its own motion or ~~upon~~ on request of the prosecutor or the defendant. *Unless the court requires a hearing, the remaining portion of the deferred or suspended sentence is terminated 30 days after the petition is filed.*

(3) ~~The~~ *If the court requires a hearing on the petition, the* court may grant the petition if it finds that:

(a) termination of the remainder of the sentence is in the best interests of the defendant and society;

(b) termination of the remainder of the sentence will not present an unreasonable risk of danger to the victim of the offense; and

(c) the defendant has paid all restitution and court-ordered financial obligations in full.”

Section 3. Section 46-23-1011, MCA, is amended to read:

“46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim’s behalf.

(3) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer’s return to Montana.

(4) The probation and parole officer shall regularly advise and consult with the probationer *using effective communication strategies and other evidence-based practices* to encourage the probationer to improve the probationer’s condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(5) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

(6) (a) *Based on the risk and needs of each individual as determined by the individual's most recent risk and needs assessment, the probation and parole officer shall recommend conditional discharge when a probationer is in compliance with the conditions of supervision when:*

- (i) *a low-risk probationer has served 9 months;*
- (ii) *a medium-risk probationer has served 12 months;*
- (iii) *a moderate-risk probationer has served 18 months; and*
- (iv) *a high-risk probationer has served 24 months.*

(b) On recommendation of the probation and parole officer, a judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

~~(b)(c) Subsection (6)(a) (6)(b) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision.~~

~~(c) If the department certifies to the sentencing judge that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the judge may not place an offender on probation under supervision by that district office unless the judge grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the judge for conditional discharge. The judge may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."~~

Section 4. Section 46-23-1015, MCA, is amended to read:

"46-23-1015. Informal probation violation intervention hearing. (1)

A probation and parole officer who reasonably believes that a probationer has violated a condition of probation *shall consult the incentives and interventions grid adopted under 53-1-203 to determine an appropriate response and* may initiate an informal probation violation intervention hearing to gain the probationer's compliance with the conditions of probation without a formal revocation hearing under 46-18-203.

(2) A hearings officer designated by the department shall conduct the intervention hearing.

(3) If the hearings officer determines by a preponderance of the evidence that the probationer has violated a condition of probation, the hearings officer may order the probationer to serve up to 30 days in a county detention center, with credit for time served since the time of arrest, or order the probationer to

~~participate in a day reporting program as provided for in 53-1-203 and order the probationer to pay the costs of incarceration or participation in the day reporting program. The department shall pay the incarceration costs not paid by the probationer shall consult the incentives and interventions grid and determine an appropriate response, including whether to:~~

~~(a) order the probationer to serve, or receive credit for serving, up to 30 days in detention;~~

~~(b) recommend electronic monitoring or day reporting for up to a 90-day period;~~

~~(c) recommend placement in a community corrections facility or program for up to a 90-day period, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program; or~~

~~(d) direct the probation and parole officer to initiate a petition for revocation under 46-18-203, if the violation is not a compliance violation or if it is a compliance violation and appropriate responses under the incentives and interventions grid have been exhausted.~~

~~(4) If the hearings officer recommends a response under subsection (3)(b), the hearings officer shall notify the probationer of the recommendation and of the probationer's right to instead have the matter referred by petition for a revocation hearing under 46-18-203.~~

~~(4)(5) The provisions of chapter 9 of this title regarding release on bail of a person charged with a crime are not applicable do not apply to a probationer ordered to be held in a county detention center or other facility under this section.~~

~~(6) All sanction and placement decisions must be documented in the offender's file."~~

Section 5. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) to carry out the purposes of 41-5-125;

(ii) for the siting, establishment, and expansion of prerelease centers;

(iii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iv) for the establishment and maintenance of residential methamphetamine treatment programs; and

(v) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders

pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(h) collect and disseminate information relating to youth who are committed to the department for placement in a state youth correctional facility;

(i) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(j) provide funding for youth who are committed to the department for placement in a state youth correctional facility;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

(m) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of ~~corrections~~ may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on juvenile parole supervision.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) (a) *The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid.*

(b) *The grid must:*

(i) *guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions in a swift, certain, and proportional manner;*

(ii) *include guidance and procedures to determine when and how to:*

(A) *request a warrant or arrest without a warrant;*

(B) *use a 72-hour detention;*

(C) *initiate an intervention hearing;*

(D) *seek departmental approval to use up to 90-day interventions;*

(E) *exhaust and document violations responses before initiating the revocation process; and*

(F) *recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody.*

(8) *The department shall:*

(a) *review the grid every 5 years to ensure it adheres to evidence-based practices and that use of sanctions and incentives by probation and parole officers is consistent across the state;*

(b) *provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole;*

(c) *offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, county detention center personnel, contracted service providers, and other interested personnel;*

(d) *ensure the guidance and procedures established in the grid give consideration to community safety and the needs of the victim and offender;*

(e) *collect data relating to placement decisions based on the grid; and*

(f) aggregate data collected and provide a report to the law and justice interim committee each biennium.”

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 19, 2017

CHAPTER NO. 392

[SB 64]

AN ACT GENERALLY REVISING LAWS RELATED TO THE BOARD OF PARDONS AND PAROLE; REVISING THE BOARD'S SIZE AND STRUCTURE; PROVIDING THAT THE BOARD IS A FULL-TIME BOARD; REVISING THE QUALIFICATIONS AND COMPENSATION OF BOARD MEMBERS; PROHIBITING A BOARD DESIGNEE FROM PERFORMING CERTAIN ACTS; REVISING THE LENGTH OF TIME THE BOARD MAY ORDER A PRISONER TO SERVE BEFORE ANOTHER HEARING OR REVIEW AFTER A PAROLE DENIAL; REVISING WHEN THE BOARD MAY ASSIGN CONDITIONS OF PAROLE; REVISING THE BOARD'S RULEMAKING AUTHORITY; REQUIRING THE DEPARTMENT OF CORRECTIONS AND THE BOARD TO COLLECT AND REPORT CERTAIN DATA; REVISING SUPERVISION AND REVOCATION PROCEDURES; REQUIRING THE BOARD TO REVIEW CERTAIN ADMINISTRATIVE RULES AND REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE; AMENDING SECTIONS 46-23-103, 46-23-104, 46-23-110, 46-23-201, 46-23-202, 46-23-208, 46-23-215, 46-23-218, 46-23-1001, 46-23-1003, 46-23-1021, 46-23-1023, 46-23-1024, AND 46-23-1025, MCA; REPEALING SECTION 2-15-2302, MCA; PROVIDING A TRANSITION SCHEDULE; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana board of pardons and parole -- composition and qualifications -- allocation -- quasi-judicial. (1) There is a board of pardons and parole consisting of five members.

(2) Board members must possess at least one of the following qualifications:

(a) a college degree in criminology, corrections, or a related social science;

(b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal law; or

(c) a law degree.

(3) Consideration should be given to balancing members' expertise or knowledge of:

(a) American Indian culture;

(b) serious mental illness and recovery from serious mental illness; and

(c) victim awareness.

(4) Board members shall serve staggered 6-year terms. The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

(5) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

(6) The board is allocated to the department of corrections for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(7) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that board members must be compensated as provided in [section 2], the terms of board members must be staggered as provided in subsection (4), and the provisions of 2-15-124(1) do not apply to the board.

(8) A favorable vote of a majority of the members of the board is required to implement a policy, procedure, or administrative rule. A favorable vote of the majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency.

Section 2. Compensation of board members. (1) Board members must be paid a salary within the pay band, as defined in 2-18-101, determined by the department of administration as provided in subsection (2). Board members must receive longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18, and must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304.

(2) The department of administration shall determine the appropriate occupation and pay band for the board members in the same manner that it determines the occupation and pay bands for employees in state government pursuant to Title 2, chapter 18.

(3) The governor shall set the salary of the board members within the pay band established by the department of administration.

Section 3. Section 46-23-103, MCA, is amended to read:

“46-23-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Board” means the board of pardons and parole provided for in ~~2-15-2302~~ [section 1].

(2) “Department” means the department of corrections provided for in 2-15-2301.

(3) “Executive clemency” refers to the powers of the governor as provided by section 12 of Article VI of the constitution of Montana.

(4) “Hearing panel” means a panel *appointed by the presiding officer of the board and made up of two or at least three board members appointed* to conduct parole hearings, revocation hearings, rescission hearings, and administrative parole reviews and to make recommendations in matters of executive clemency.

(5) “Parole” means the release to the community of a prisoner by the decision of a hearing panel prior to the expiration of the prisoner’s term, subject to conditions imposed by the hearing panel and subject to supervision of the department.

(6) “Victim” means a victim as defined in 46-18-243.”

Section 4. Section 46-23-104, MCA, is amended to read:

“46-23-104. Board of pardons and parole. (1) The board of pardons and parole is responsible for executive clemency and parole as provided in this chapter.

(2) The board shall ~~meet monthly at a place determined by the board and at other work full time and meet in hearing panels at the times and places that~~ the board considers necessary.

(3) The principal office of the board is in Deer Lodge.

(4) The presiding officer of the board ~~or a designee in consultation with the members~~ shall appoint hearing panels and their presiding officers to conduct hearings and to issue final decisions concerning parole and recommendations

concerning executive clemency and shall request out-of-state releasing authorities to conduct hearings pursuant to Article IV(6) of the Western Interstate Corrections Compact. The presiding officer of the board or a designee shall attempt to make hearing panel appointments in a manner that ensures equitable distribution of workload among board members. ~~If a hearing panel consisting of two members is unable to reach a unanimous decision, the presiding officer of the board shall appoint a third member to consider all pertinent information and render a final decision concerning parole or a recommendation concerning executive clemency.~~ The hearing panels have the full authority and power of the board to order the denial, grant, or revocation of parole and to make recommendations in matters of executive clemency."

Section 5. Section 46-23-110, MCA, is amended to read:

"46-23-110. (Temporary) Records – dissemination. (1) (a) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in 2-6-1003, 2-6-1006, 2-6-1007, and this section.

(b) ~~The board shall video-record and audio-record all meetings held pursuant to 46-23-104(2) and all hearings conducted under part 2 or part 3 of this chapter or 46-23-1025. A recording may not personally identify the victim without the victim's written consent.~~

(c) Except as provided in subsection (2), the board shall make video recordings publicly available.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the record requested and determine whether any document in the file or any content in a video recording is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document or redact content of a video recording if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's or recording's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied. (Terminates June 30, 2019--sec. 2, Ch. 402, L. 2015.)

46-23-110. (Effective July 1, 2019) Records – dissemination. (1) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in 2-6-1003, 2-6-1006, 2-6-1007, and this section.

(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the file requested and determine whether any document in the file is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure.

(4) The board may assert the privacy or safety interest and may withhold a document if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest.

(6) The board may charge a reasonable fee for copying and inspecting records.

(7) The board may limit the time and place that the records may be inspected or copied."

Section 6. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for nonmedical parole —rulemaking.

(1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a youth correctional facility;

(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years *if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense* before a hearing panel conducts another hearing or review. ~~The board shall adopt by administrative rule a process by which a prisoner may request an earlier hearing or review."~~

Section 7. Section 46-23-202, MCA, is amended to read:

"46-23-202. Initial parole hearing. Within the 2 months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing before a hearing panel. The hearing panel shall consider ~~all available~~ *the prisoner's score under the parole guidelines and other case-specific* and pertinent information regarding the prisoner, including the criteria in 46-23-208."

Section 8. Section 46-23-208, MCA, is amended to read:

“46-23-208. Nonmedical parole criteria – information board may consider. (1) The board may release an eligible prisoner on nonmedical parole only when:

- (a) there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community;
- (b) release is in the best interests of society;
- (c) the prisoner is able and willing to fulfill the obligations of a law-abiding citizen; and
- (d) the prisoner does not require:
 - (i) continued correctional treatment *that cannot be found in the community*;

or

- (ii) other programs available *only* in a correctional facility that will substantially enhance the prisoner's capability to lead a law-abiding life if released, including mental health therapy or vocational training.

(2) Parole may not be ordered as an award of clemency or a reduction of sentence or pardon.

(3) For a prisoner sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312:

- (a) the board may require as a condition of parole participation in a supervised mental health treatment program, *if consistent with mental health services recommendations provided by a mental health professional, as that term is defined in 53-21-102*, to ensure that the prisoner continues to treat the prisoner's mental disorder; and

- (b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (3)(a), in which case the prisoner must be recommitted to the custody of the director of the department of public health and human services pursuant to 46-14-312.

(4) In making its determination regarding nonmedical parole release, a hearing panel shall consider all available and pertinent information regarding the prisoner, including the following factors:

- (a) the circumstances of the offense;
- (b) the prisoner's social history and prior criminal record, including the nature and circumstances of the offense, date of offense, and frequency of previous offenses;
- (c) the prisoner's conduct, employment, and attitude in prison, including particularly whether the prisoner has taken advantage of opportunities for treatment and whether the prisoner is clear of major disciplinary violations prior to the hearing;
- (d) the reports of any physical, psychological, and mental evaluations that have been made;
- (e) the prisoner's maturity, stability, sense of responsibility, and development of traits and behaviors that increase the likelihood the prisoner will conform the prisoner's behavior to the requirements of law;
- (f) the adequacy of the prisoner's release plan;
- (g) the prisoner's ability and readiness to assume obligations and undertake responsibilities;
- (h) the prisoner's education and training;
- (i) the prisoner's family status and whether the prisoner has relatives who display an interest or whether the prisoner has other close and constructive associations in the community;
- (j) the prisoner's employment history and occupational skills and the stability of the prisoner's past employment;
- (k) the type of residence, neighborhood, or community in which the prisoner plans to live;

(l) the prisoner's past use of chemicals, including alcohol, and past habitual or abusive use of chemicals;

(m) the prisoner's mental ~~and physical makeup~~ *health needs*;

(n) the prisoner's attitude toward law and authority;

(o) the prisoner's behavior and attitude during any previous experience of supervision and the recency of the supervision;

(p) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the offender should be paroled.

(q) whether parole at this time would diminish the seriousness of the offense; and

(r) any and all other factors that the hearing panel determines to be relevant.

(5) A victim's statement may be kept confidential."

Section 9. Section 46-23-215, MCA, is amended to read:

"46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board.

(2) (a) When a hearing panel issues an order for parole, the order must recite the conditions of parole. *The hearing panel shall consider the parole guidelines governing conditions and the parole plan provided by the department before imposing conditions of parole to address the prisoner's criminogenic factors.* If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under 44-6-103 and if the prisoner was convicted of, or was found under 41-5-1502 to have committed, a sexual offense or violent offense.

(b) The board may require the prisoner convicted of a sexual offense to refrain from direct or indirect contact with a victim of the crime or with an immediate family member of the victim. If a victim or an immediate family member requests that the prisoner not contact the victim or immediate family member, the board shall require the prisoner to refrain from contact with the victim or immediate family member. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(c) An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board ~~or a designee~~ may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in 45-7-306. The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board ~~or a designee~~.

(4) For the purposes of this section, "sexual offense" and "violent offense" have the meanings provided in 46-23-502."

Section 10. Section 46-23-218, MCA, is amended to read:

"46-23-218. Authority of board to adopt rules – purpose for training – data collection. (1) The board may adopt any rules that it considers proper

or necessary with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, videoconference hearings, telephone conference administrative reviews, progress reviews, clemency proceedings, the conditions to be imposed upon parolees, the training of board members regarding American Indian culture and problems, and other matters pertinent to service on the board.

(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board.

(3) *In consultation with the department, the board shall adopt rules to establish:*

(a) *parole guidelines to structure and guide parole release decisions and the imposition of release conditions. The guidelines must include, in decreasing order of importance, the prisoner's:*

(i) *risk and needs levels, as determined by a validated risk and needs assessment;*

(ii) *participation in risk-reducing programs and treatment;*

(iii) *institutional behavior as reflected by disciplinary records; and*

(iv) *offense severity.*

(b) *a process by which a prisoner who has been denied parole and has more than 1 year before a scheduled hearing or review may request an earlier hearing or review; and*

(c) *criteria for consideration of conditional discharges, which must include supervision compliance, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability.*

(4) *The board and the department shall compile data to validate the parole guidelines after gathering recidivism results for the last 3 years and every 5 years thereafter. The board may adopt rules to govern the transition to use of parole guidelines. The data collection must start by April 2018.*

(5) *The board shall annually assess and prioritize inservice training needs and arrange for training to strengthen knowledge and skills needed for case assessment, interviewing, and parole decisionmaking. Board members, parole analysts, and the hearings officers shall attend the training, as well as other board and department staff as needed."*

Section 11. Section 46-23-1001, MCA, is amended to read:

"46-23-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) *"Absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful.*

~~(1)~~(2) *"Board" means the board of pardons and parole provided for in 2-15-2302 [section 1].*

(3) *"Compliance violation" means a violation of the conditions of supervision that is not:*

(a) *a new criminal offense;*

(b) *possession of a firearm in violation of a condition of probation or parole;*

(c) *behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of an offense or a member of the victim's immediate family or support network;*

(d) *absconding; or*

(e) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

~~(2)(4)~~ “Department” means the department of corrections provided for in 2-15-2301.

~~(3)(5)~~ “Parole” means the release to the community of a prisoner by the decision of the board prior to the expiration of the prisoner’s term, subject to conditions imposed by the board and subject to supervision of the department.

~~(4)(6)~~ “Probation” means the release by the court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court.”

Section 12. Section 46-23-1003, MCA, is amended to read:

“46-23-1003. Qualifications of probation and parole officers. (1) *(a)* Probation and parole officers must have at least a college degree and some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in ~~2-15-2302(2)(c)~~ *subsection (1)(b)* may be substituted for educational requirements at the rate of 1 year of experience for 9 months formal education if approved by the department. All present employees are exempt from this requirement but are encouraged to further their education at the earliest opportunity.

(b) Work experience that may be substituted for the educational requirements in subsection (1)(a) includes experience in the areas of criminology, education, medicine, psychiatry, psychology, law, law enforcement, social work, sociology, psychiatric nursing, or guidance and counseling.

(2) Each probation and parole officer shall, through a source approved by the officer’s employer, obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers, at least 1 hour of which must include training on serious mental illness and recovery from serious mental illness. In addition, each probation and parole officer must receive training in accordance with standards adopted by the Montana public safety officer standards and training council established in 2-15-2029. The training must be at the Montana law enforcement academy unless the council finds that training at some other place is more appropriate.”

Section 13. Section 46-23-1021, MCA, is amended to read:

“46-23-1021. Supervision on parole. (1) The department shall retain custody of all persons placed on parole and shall supervise the persons during their parole periods in accordance with the conditions set by the board.

(2) The department shall assign personnel to assist a person who is eligible for parole in preparing a parole plan. Department personnel shall make a report of their efforts and findings to the board prior to its consideration of the case of the eligible person.

(3) A copy of the conditions of parole must be signed by the parolee and given to the parolee and to the parolee’s probation and parole officer, who shall report on the parolee’s progress under the rules of the board.

(4) The probation and parole officer shall regularly advise and consult with the parolee, *use effective communication strategies and other evidence-based practices*, assist the parolee in adjusting to community life, and inform the parolee of the restoration of rights on successful completion of the sentence.

(5) The probation and parole officer shall keep records as the board or department may require. All records must be entered in the master file of the individual.

(6) *(a)* Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of the parolee’s sentence if the board determines that a conditional discharge

from supervision is in the best interests of the parolee and society and will not present unreasonable risk of danger to the victim of the offense.

(b) Any of the achievements listed in 46-23-1027(2) must be considered a significant achievement by the board in deciding whether to grant a conditional discharge from supervision to a parolee.

(c) If the board discharges a parolee from supervision, the department is relieved of the obligation of supervising the parolee.

(d) For good cause, the board may return a parolee who was conditionally discharged to the status of a regular parolee.

(e) Subsection (6)(a) does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision.

~~(f) If the department certifies to the board that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the board may not parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised by that district office. The department may recommend parolees to the board for conditional discharge. The board may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."~~

Section 14. Section 46-23-1023, MCA, is amended to read:

"46-23-1023. Arrest of alleged parole violator. (1) At any time during release on parole or conditional release, the department may issue a warrant for the arrest of the parolee for violation of any of the conditions of release or a notice to appear to answer to a charge of violation. The notice must be served personally upon the parolee. The warrant must authorize all officers named in the warrant to return the parolee to the actual custody of the penal institution from which the parolee was released or to any other suitable detention facility designated by the department.

(2) Any probation and parole officer may arrest the parolee without a warrant or may deputize any other officer with power to arrest to do so by giving the officer oral authorization and within 12 hours delivering to the place of detention a written statement setting forth that the parolee has, in the judgment of the probation and parole officer, violated the conditions of the parolee's release. A written statement or oral authorization delivered with the parolee by the arresting officer to the official in charge of the institution from which the parolee was released or other place of detention is sufficient warrant for the detention of the parolee or conditional releasee if the probation and parole officer delivers a written statement within 12 hours of the arrest. The probation and parole officer, after making an arrest, shall present to the detaining authorities a similar statement of the circumstances of violation.

(3) Pending a hearing, as provided in 46-23-1024 and 46-23-1025, upon any charge of violation the parolee may, if circumstances warrant, be incarcerated in the institution.

(4) A probation and parole officer may authorize a detention center to hold a parolee arrested under this section without bail for 72 hours. Within 72 hours following the parolee's detention, the probation and parole officer shall:

(a) authorize the detention center to release the parolee;

(b) initiate an intervention hearing; or

(c) initiate the revocation process with an initial hearing."

Section 15. Section 46-23-1024, MCA, is amended to read:

"46-23-1024. Initial hearing after arrest. (1) After the arrest of the parolee, ~~a an initial hearing must be held within a reasonable time; unless:~~

~~(a) the hearing is waived by the parolee; or~~

(b) the parolee has been charged in any court with a violation of the law; or
(c) *the probation and parole officer authorizes release or initiates an intervention hearing under subsection (4).*

(2) The *initial* hearing is an onsite hearing *but may be conducted via interactive videoconference* and must be held to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions. An independent officer, who need not be a judicial officer, shall preside over the hearing. The hearing must be conducted at or reasonably near the place of the alleged parole violation or arrest and ~~as promptly as convenient~~ *within 5 days* after arrest. The parolee must be given notice of the hearing and must be allowed to appear and speak in the parolee's own behalf and introduce relevant information to the hearings officer.

(3) The hearings officer shall make a summary of what transpires at the hearing in terms of the responses and position of the parolee and the substance of the documents or evidence given in support of parole revocation. Based on the information given to the hearings officer, the hearings officer shall determine whether there is probable cause *and then determine whether to initiate an informal violation intervention hearing or to hold the parolee for the final decision of the board of pardons and parole as provided in 46-23-1025.*

(4) (a) *In lieu of an initial hearing, a probation and parole officer who reasonably believes that a parolee has violated a condition of parole:*

(i) *shall consult the department's incentives and interventions grid to determine an appropriate response; and*

(ii) *may initiate an informal violation intervention hearing to gain the parolee's compliance with the conditions of parole without a formal revocation hearing.*

(b) *A hearings officer designated by the department in conjunction with the board shall conduct the intervention hearing. The hearing may be conducted by interactive videoconference.*

(c) *If the hearings officer determines by a preponderance of the evidence that a parolee has violated a condition of parole, the hearings officer shall consult the department's incentives and interventions grid and determine an appropriate response, including whether to:*

(i) *order the parolee to serve or receive credit for serving up to 30 days of detention;*

(ii) *recommend electronic monitoring or day reporting for up to a 90-day period;*

(iii) *recommend placement in a community corrections facility or program for up to a 90-day period, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program; or*

(iv) *direct the probation and parole officer to initiate a petition for revocation under 46-23-1025 if the violation is not a compliance violation or if it is a compliance violation and the appropriate responses under the department's incentives and interventions grid have been exhausted.*

(5) *If the hearings officer recommends a response under subsection (4)(c)(ii), the officer shall notify the parolee of the recommendation and of the parolee's right to instead have the matter referred for a revocation hearing under 46-23-1025.*

(6) *The provisions of Title 46, chapter 9, regarding release on bail of a person charged with a crime are not applicable to a parolee ordered to be held in a county detention center or other facility under this section.*

(7) *All sanction and placement decisions must be documented in the offender's file.*"

Section 16. Section 46-23-1025, MCA, is amended to read:

"46-23-1025. Report to and action by board. (1) If the hearings officer determines that there is probable cause to believe that the prisoner has violated a condition of parole *and directs the probation and parole officer to initiate a petition for revocation*, the probation and parole officer shall immediately notify the board and shall submit in writing a report showing in what manner the prisoner has violated the conditions of release *and describe the exhaustion of appropriate violation responses according to the department's incentives and interventions grid*. This report must be accompanied by the findings of the hearings officer *and placed in the offender's file*.

(2) Upon receipt of a report, the board shall cause the prisoner to be promptly brought before a hearing panel for a hearing on the violation charged under rules that the board may adopt. *The hearing may be conducted via interactive videoconference*. If the violation is established; *and the hearing panel finds that the violation is a compliance violation and that appropriate violation responses under the department's incentives and interventions grid have not been exhausted*, the panel shall notify the department and refer the matter back to the hearings officer. *If the violation is established and the hearing panel finds that the violation is a compliance violation and that appropriate violation responses under the department's incentives and interventions grid have been exhausted*, the hearing panel may:

(a) continue ~~or revoke~~ the parole without a change in conditions; or

(b) continue the parole with modified or additional terms and conditions, which may include placement in:

(i) a secure facility designated by the department for up to 9 months; or

(ii) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program.

(3) *If the hearing panel finds that the violation is not a compliance violation*, the panel may:

(a) continue the parole without a change in conditions;

(b) continue the parole with modified or additional terms and conditions, which may include placement as provided in subsection (2)(b) for up to 9 months; or

(c) revoke the parole or ~~may~~ enter an order as ~~it~~ the hearing panel sees fit.

~~(3)~~(4) If the prisoner has violated a condition of release requiring the payment of restitution, the supervising parole officer shall notify the victim of the offense prior to the hearing required by 46-23-1024 and give the victim an opportunity to provide written or oral comment.

~~(4)~~(5) If the hearing panel finds that because of circumstances beyond the prisoner's control the prisoner is unable to make the required restitution payments, the hearing panel may not revoke the prisoner's parole for failure to pay restitution. The hearing panel may modify the time or method of making restitution and may extend the restitution schedule, but the schedule may not be extended beyond the period of state supervision over the prisoner.

~~(5)~~(6) If the hearing panel determines that the prisoner has violated the provisions of release, the hearing panel shall determine the amount of time, if any, that will be counted as time served while the prisoner was in violation of the provisions of release.

(7) *All decisions regarding sanctions, placements, or revocation must be documented in the offender's file.*"

Section 17. Board to review administrative rules -- report. (1) The board shall review its administrative rules that were adopted prior to [the effective date of this section], as required in 2-4-314.

(2) The board shall update the law and justice interim committee during the 2017-2018 interim at times requested by the committee. The update must include the progress and results of the review and other information requested by the committee.

(3) The law and justice interim committee may recommend to the 66th legislature those modifications, additions, or deletions of the board's rulemaking authority that the committee considers necessary.

Section 18. Repealer. The following section of the Montana Code Annotated is repealed:

2-15-2302. Board of pardons and parole -- composition -- allocation -- quasi-judicial.

Section 19. Transition. (1) The seven-member board of pardons and parole, established in 2-15-2302, must become the five-member board of pardons and parole, established in [section 1], on [the effective date of this section].

(2) Within 60 days of [the effective date of this section], the governor shall appoint five full-time board members who fulfill the requirements of [section 1] and according to the following schedule:

(a) one member who shall serve a term that ends on the first day of January 2023 and until the member's successor is appointed;

(b) two members who shall each serve a term that ends on the first day of January 2021 and until the member's successor is appointed; and

(c) two members who shall each serve a term that ends on the first day of January 2019 and until the member's successor is appointed.

(3) The governor may appoint an individual who previously served as a board member before [the effective date of this section] to a term provided for in subsection (2) or (4).

(4) After the expiration of a term provided for in subsection (2), the governor shall appoint a person to serve a full 6-year term as provided in [section 1]. A member who previously served an abbreviated term may be reappointed for a full 6-year term.

(5) As required by 2-15-124, all board members, including the members appointed pursuant to subsection (2) of this section, must be confirmed by the senate.

Section 20. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 23, and the provisions of Title 2, chapter 15, part 23, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 46, chapter 23, part 1, and the provisions of Title 46, chapter 23, part 1, apply to [section 2].

Section 21. Coordination instruction. If both Senate Bill No. 294 and [this act] are passed and approved, then [section 2 of this act] must read as follows:

"Section 2. Compensation of board members. (1) Board members must be paid a salary within the ~~pay band, as defined in 2-18-101, determined occupational wage range for the occupation designated~~ by the department of administration as provided in subsection (2). Board members must receive longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18, and must

receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304.

(2) The department of administration shall determine the appropriate occupation ~~and pay band~~ for the board members in the same manner that it determines the occupation ~~and pay bands~~ for employees in state government pursuant to Title 2, chapter 18.

(3) The governor shall set the salary of the board members within the ~~pay band~~ *occupational wage range* established by the department of administration.”

Section 22. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Sections 10 and 17 and this section] are effective on passage and approval.

Section 23. Applicability. [This act] applies to hearings conducted under Title 46, chapter 23, parts 2 or 3, and parole supervision and revocation hearings conducted under Title 46, chapter 23, part 10, on or after [the effective date of this section].

Approved May 19, 2017

CHAPTER NO. 393

[SB 123]

AN ACT REVISING MARRIAGE LICENSE APPLICATION LAWS TO PROVIDE THAT NONRESIDENT PARTIES MAY OBTAIN A LICENSE IN ANY COUNTY IN THE STATE; AND AMENDING SECTION 40-1-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-1-201, MCA, is amended to read:

“40-1-201. License application. (1) ~~A Montana resident~~ *Parties* may not be joined in marriage within this state until a license has been obtained for that purpose from a clerk of the district court.

(2) A license authorizes a marriage ceremony to be performed in any county of this state.

(3) ~~If both parties are nonresidents of the state, the license may be obtained from the clerk of the district court of the county where the marriage ceremony is to be performed. If one of the persons an applicant for a marriage license is a nonresident of the county where the license is to issue, the nonresident's nonresident applicant's part of the application may be completed and sworn to or affirmed before the person authorized to accept license applications in the county and state in which that person the nonresident applicant resides.”~~

Approved May 19, 2017

CHAPTER NO. 394

[SB 153]

AN ACT CREATING THE OFFENSE OF STRANGULATION OF A PARTNER OR FAMILY MEMBER; AMENDING SECTIONS 40-15-102, 40-4-219, 41-3-301, 44-4-311, 45-5-206, 45-5-209, 46-1-502, 46-6-311, 46-9-108, 46-9-302, 46-16-226, 46-18-219, AND 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Strangulation of a partner or family member. (1) A person commits the offense of strangulation of a partner or family member if the person purposely or knowingly impedes the normal breathing or circulation of the blood of a partner or family member by:

(a) applying pressure on the throat or neck of the partner or family member; or

(b) blocking air flow to the nose and mouth of the partner or family member.

(2) (a) A person convicted of a first offense of strangulation of a partner or family member shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

(b) A person convicted of a second or subsequent offense under this section shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined an amount not more than \$50,000, except as provided in 46-18-219 and 46-18-222.

(3) A person convicted of strangulation of a partner or family member is required to pay for and complete a counseling assessment as required in 45-5-206(4).

(4) For the purposes of this section, “partner” and “family member” have the meanings provided in 45-5-206.

Section 2. Section 40-15-102, MCA, is amended to read:

“40-15-102. Eligibility for order of protection. (1) A person may file a petition for an order of protection if:

(a) the petitioner is in reasonable apprehension of bodily injury by the petitioner’s partner or family member as defined in 45-5-206; or

(b) the petitioner is a victim of one of the following offenses committed by a partner or family member:

(i) assault as defined in 45-5-201;

(ii) aggravated assault as defined in 45-5-202;

(iii) intimidation as defined in 45-5-203;

(iv) partner or family member assault as defined in 45-5-206;

(v) criminal endangerment as defined in 45-5-207;

(vi) negligent endangerment as defined in 45-5-208;

(vii) assault on a minor as defined in 45-5-212;

(viii) assault with a weapon as defined in 45-5-213;

(ix) *strangulation of a partner or family member as defined in [section 1];*

~~(ix)~~(x) unlawful restraint as defined in 45-5-301;

~~(x)~~(xi) kidnapping as defined in 45-5-302;

~~(xi)~~(xii) aggravated kidnapping as defined in 45-5-303; or

~~(xii)~~(xiii) arson as defined in 45-6-103.

(2) The following individuals are eligible to file a petition for an order of protection against the offender regardless of the individual’s relationship to the offender:

(a) a victim of assault as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a minor as defined in 45-5-212, stalking as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as defined in 45-5-502, or sexual intercourse without consent as defined in 45-5-503; or

(b) a partner or family member of a victim of deliberate homicide as defined in 45-5-102 or mitigated deliberate homicide as defined in 45-5-103.

(3) A parent, guardian ad litem, or other representative of the petitioner may file a petition for an order of protection on behalf of a minor petitioner against the petitioner’s abuser. At its discretion, a court may appoint a guardian ad litem for a minor petitioner.

(4) A guardian must be appointed for a minor respondent when required by Rule 17(c), Montana Rules of Civil Procedure, or by 25-31-602. An order of protection is effective against a respondent regardless of the respondent's age.

(5) A petitioner is eligible for an order of protection whether or not:

(a) the petitioner reports the abuse to law enforcement;

(b) charges are filed; or

(c) the petitioner participates in a criminal prosecution.

(6) If a petitioner is otherwise entitled to an order of protection, the length of time between the abusive incident and the petitioner's application for an order of protection is irrelevant."

Section 3. Section 40-4-219, MCA, is amended to read:

"40-4-219. Amendment of parenting plan – mediation. (1) The court may in its discretion amend a prior parenting plan if it finds, upon the basis of facts that have arisen since the prior plan or that were unknown to the court at the time of entry of the prior plan, that a change has occurred in the circumstances of the child and that the amendment is necessary to serve the best interest of the child. In determining the child's best interest under this section, the court may, in addition to the criteria in 40-4-212, also consider whether:

(a) the parents agree to the amendment;

(b) the child has been integrated into the family of the petitioner with consent of the parents;

(c) the child is 14 years of age or older and desires the amendment;

(d) one parent has willfully and consistently:

(i) refused to allow the child to have any contact with the other parent; or

(ii) attempted to frustrate or deny contact with the child by the other parent; or

(e) one parent has changed or intends to change the child's residence in a manner that significantly affects the child's contact with the other parent.

(2) A court may modify a de facto parenting arrangement in accordance with the factors set forth in 40-4-212.

(3) The court shall presume a parent is not acting in the child's best interest if the parent does any of the acts specified in subsection (1)(d) or (8).

(4) The court may amend the prior parenting plan based on subsection (1)(e) to provide a new residential schedule for parental contact with the child and to apportion transportation costs between the parents.

(5) Attorney fees and costs must be assessed against a party seeking frivolous or repeated amendment if the court finds that the amendment action is vexatious and constitutes harassment.

(6) A parenting plan may be amended *pursuant to 40-4-221* upon the death of one parent ~~pursuant to 40-4-221~~.

(7) As used in this section, "prior parenting plan" means a parenting determination contained in a judicial decree or order made in a parenting proceeding. In proceedings for amendment under this section, a proposed amended parenting plan must be filed and served with the motion for amendment and with the response to the motion for amendment. Preference must be given to carrying out the parenting plan.

(8) (a) If a parent or other person residing in that parent's household has been convicted of any of the crimes listed in subsection (8)(b), the other parent or any other person who has been granted rights to the child pursuant to court order may file an objection to the current parenting order with the court. The parent or other person having rights to the child pursuant to court order shall give notice to the other parent of the objection as provided by the Montana Rules of Civil Procedure, and the other parent has 21 days from the notice to

respond. If the parent who receives notice of objection fails to respond within 21 days, the parenting rights of that parent are suspended until further order of the court. If that parent responds and objects, a hearing must be held within 30 days of the response.

(b) This subsection (8) applies to the following crimes:

- (i) deliberate homicide, as described in 45-5-102;
- (ii) mitigated deliberate homicide, as described in 45-5-103;
- (iii) sexual assault, as described in 45-5-502;
- (iv) sexual intercourse without consent, as described in 45-5-503;
- (v) deviate sexual conduct with an animal, as described in 45-2-101 and prohibited under 45-8-218;
- (vi) incest, as described in 45-5-507;
- (vii) aggravated promotion of prostitution of a child, as described in 45-5-603(1)(b);
- (viii) endangering the welfare of children, as described in 45-5-622;
- (ix) partner or family member assault of the type described in 45-5-206(1)(a);
- (x) sexual abuse of children, as described in 45-5-625; *and*
- (xi) *strangulation of a partner or family member, as described in [section 1].*

(9) Except in cases of physical, sexual, or emotional abuse or threat of physical, sexual, or emotional abuse by one parent against the other parent or the child or when a parent has been convicted of a crime enumerated in subsection (8)(b), the court may, in its discretion, order the parties to participate in a dispute resolution process to assist in resolving any conflicts between the parties regarding amendment of the parenting plan. The dispute resolution process may include counseling or mediation by a specified person or agency, and court action.

(10) (a) Except as provided in subsection (10)(b), a court-ordered or de facto modification of a parenting plan based in whole or in part on military service orders of a parent is temporary and reverts to the previous parenting plan at the end of the military service. If a motion for an amendment of a parenting plan is filed after a parent returns from military service, the court may not consider a parent's absence due to that military service in its determination of the best interest of the child.

(b) A parent who has performed or is performing military service, as defined in 10-1-1003, may consent to a temporary or permanent modification of a parenting plan:

- (i) for the duration of the military service; or
- (ii) that continues past the end of the military service."

Section 4. Section 41-3-301, MCA, is amended to read:

"41-3-301. Emergency protective service. (1) Any child protective social worker of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during

any in-person meeting with the social worker concerning emergency protective services.

(2) If a social worker of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, *or strangulation of a partner or family member, as provided for in [section 1]*, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault *or strangulation of a partner or family member* against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault *or strangulation of a partner or family member*;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault *or strangulation of a partner or family member* from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault *or strangulation of a partner or family member*; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault *or strangulation of a partner or family member* until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault *or strangulation of a partner or family member*, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) [Except as provided in 41-3-305,] if a child is removed from the child's home by the department, a child protective social worker shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the social worker shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing. (Bracketed language in subsection (6) terminates June 30, 2017--sec. 7, Ch. 376, L. 2015.)"

Section 5. Section 44-4-311, MCA, is amended to read:

"44-4-311. Domestic violence intervention program. (1) The Montana board of crime control shall use the money in the domestic violence intervention account established by 44-4-310 to fund a domestic violence intervention program to provide grants to communities for misdemeanor probation officers or compliance officers to monitor compliance with sentencing requirements for offenders convicted of the offense of partner or family member assault under 45-5-206, *the offense of strangulation of a partner or family member under [section 1]*, or of a violation of an order of protection under 45-5-626.

(2) In administering the domestic violence intervention program, the Montana board of crime control shall:

(a) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(b) monitor the expenditure of funds by organizations receiving funds under this section;

(c) evaluate the effectiveness of services and activities under this section; and

(d) adopt rules necessary to implement 44-4-310 through 44-4-313."

Section 6. Section 45-5-206, MCA, is amended to read:

"45-5-206. Partner or family member assault – penalty. (1) A person commits the offense of partner or family member assault if the person:

(a) purposely or knowingly causes bodily injury to a partner or family member;

(b) negligently causes bodily injury to a partner or family member with a weapon; or

(c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply:

(a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.

(ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.

(iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in 46-23-1005.

(iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than \$500 and not more than \$50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be

imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

(v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.

(b) For the purpose of determining the number of convictions under this section, a conviction means:

(i) a conviction, as defined in 45-2-101, under this section;

(ii) a conviction for domestic abuse under this section;

(iii) a conviction for a violation of a statute similar to this section in another state;

(iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under 45-5-202 or assault with a weapon under 45-5-213;

(v) *a conviction for strangulation of a partner or family member under [section 1];*

~~(vi)~~(vi) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under 45-5-202, 45-5-213, or this section; or

~~(vi)~~(vii) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

(4) (a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

(b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must be:

(i) with a person licensed under Title 37, chapter 17, 22, or 23;

(ii) with a professional person as defined in 53-21-102; or

(iii) in a specialized domestic violence intervention program.

(c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender.

(5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

(6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

(8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail."

Section 7. Section 45-5-209, MCA, is amended to read:

"45-5-209. Partner or family member assault – no contact order – notice – violation of order – penalty. (1) A court may issue a standing no contact order and direct law enforcement to serve the order on a defendant charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, ~~or~~ 45-5-213, ~~or~~ [section 1]. The court order may specify conditions necessary to enhance the safety of any protected person. The court-ordered conditions may include prohibiting the defendant from contacting the protected person in person, by a third party, by telephone, by electronic communication, as defined in 45-8-213, and in writing. The court may impose up to a 1,500-foot restriction on the defendant to stay away from the protected person's location.

(2) Notice of the no contact order must be given orally and in writing by a peace officer at the time that the offender is charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, ~~or~~ 45-5-213, ~~or~~ [section 1]. One copy of the order must be given to the defendant, and one copy must be filed with the court.

(3) The charge of a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, ~~or~~ 45-5-213, ~~or~~ [section 1] must be supported by a peace officer's affidavit of probable cause.

(4) The no contact order issued at the time that the defendant is charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, ~~or~~ 45-5-213, ~~or~~ [section 1] is effective for 72 hours or until the defendant makes the first appearance in court.

(5) The court order must state:

"You have been charged with or arrested for an assault on a partner or family member. You are not allowed to have contact with _____

_____. (list names). You may not _____. Violation of this no contact order is a criminal offense under 45-5-209, MCA, and may result in your arrest. You may be arrested even if the person protected by the no contact order invites or allows you to violate the prohibitions. This order lasts 72 hours or until the court continues or changes the order."

(6) The court shall review and amend, if appropriate, the no contact order at the defendant's first appearance.

(7) A no contact order may be issued by a court with jurisdiction over violations of 45-5-206 or, if the victim is a partner or family member of the defendant, violations of 45-5-202, ~~or~~ 45-5-213, ~~or~~ [section 1] at the time of the

defendant's arraignment or at any other appearance of the defendant, including sentencing. The no contact order must be in writing. A copy of the no contact order must be given to the defendant when it is issued by the court. The court order shall specify protected persons and prohibited contact, including but not limited to the restriction mentioned in subsection (1).

(8) (a) A person commits the offense of violation of a no contact order if the person, with knowledge of the order, purposely or knowingly violates any provision of any order issued under this section.

(b) Each contact or attempt to make contact with each protected person, directly or indirectly, is a separate offense. Consent of the protected person to prohibited contact is not a defense. A protected person may not be charged with a violation of a no contact order.

(c) An offender convicted of violation of a no contact order shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(9) As used in this section, the following definitions apply:

(a) "No contact order" means a court order that prohibits a defendant charged with or convicted of an assault on a partner or family member from contacting a protected person.

(b) "Partner" or "family member" has the meaning provided in 45-5-206.

(c) "Protected person" means a victim of a partner or family member assault listed in a no contact order."

Section 8. Section 46-1-502, MCA, is amended to read:

"46-1-502. Mediation. (1) At any time after the commencement of a prosecution and before the verdict, the court may, at its suggestion or upon motion of a party and with the consent of all the parties, refer the proceeding to mediation by a mediator chosen by the court.

(2) The proceeding may not be referred for mediation if the offense charged is:

(a) deliberate homicide, as described in 45-5-102;

(b) mitigated deliberate homicide, as described in 45-5-103;

(c) intimidation, as described in 45-5-203;

(d) partner or family member assault, as described in 45-5-206;

(e) assault on a minor, as described in 45-5-212;

(f) *strangulation of a partner or family member, as described in [section 1];*

~~(f)~~(g) stalking, as described in 45-5-220;

~~(g)~~(h) aggravated kidnapping, as described in 45-5-303;

~~(h)~~(i) a sex crime, as described in 45-5-502, 45-5-503, 45-5-504, or 45-5-507;

~~(i)~~(j) endangering the welfare of children, as described in 45-5-622;

~~(j)~~(k) sexual abuse of children, as described in 45-5-625; or

~~(k)~~(l) ritual abuse of a minor, as described in 45-5-627.

(3) Any aspect of or issue in the proceeding may be the subject of the mediation, including but not limited to the charge, a plea bargain, or a recommended sentence.

(4) At any point during mediation, a party may withdraw from the mediation without penalty or sanction.

(5) This section does not prohibit the parties from engaging in traditional plea negotiations."

Section 9. Section 46-6-311, MCA, is amended to read:

"46-6-311. Basis for arrest without warrant – arrest of predominant aggressor – no contact order. (1) A peace officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest.

(2) (a) The summoning of a peace officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim.

(b) When a peace officer responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine who is the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor, the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor:

(i) the prior history of violence between the partners or family members, if information about the prior history is available to the officer;

(ii) the relative severity of injuries received by each person;

(iii) whether an act of or threat of violence was taken in self-defense;

(iv) the relative sizes and apparent strength of each person;

(v) the apparent fear or lack of fear between the partners or family members; and

(vi) statements made by witnesses.

(3) If a judge has issued a standing order as provided in 45-5-209, a peace officer shall give a defendant charged with or arrested for partner or family member assault or a violation of 45-5-202, ~~or 45-5-213~~, *or [section 1]* if the victim is a partner or family member of the defendant, both written and verbal notice of the no contact order issued pursuant to 45-5-209. The notice must include specific conditions as ordered by the court."

Section 10. Section 46-9-108, MCA, is amended to read:

"46-9-108. Conditions upon defendant's release – notice to victim of stalker's release. (1) The court may impose any condition that will reasonably ensure the appearance of the defendant as required or that will ensure the safety of any person or the community, including but not limited to the following conditions:

(a) the defendant may not commit an offense during the period of release;

(b) the defendant shall remain in the custody of a designated person who agrees to supervise the defendant and report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any person or the community;

(c) the defendant shall maintain employment or, if unemployed, actively seek employment;

(d) the defendant shall abide by specified restrictions on the defendant's personal associations, place of abode, and travel;

(e) the defendant shall avoid all contact with:

(i) an alleged victim of the crime, including in a case of partner or family member assault *or strangulation of a partner or family member* the restrictions contained in a no contact order issued under 45-5-209; and

(ii) any potential witness who may testify concerning the offense;

(f) the defendant shall report on a regular basis to a designated agency or individual, pretrial services agency, or other appropriate individual;

(g) the defendant shall comply with a specified curfew;

(h) the defendant may not possess a firearm, destructive device, or other dangerous weapon;

(i) the defendant may not use or possess alcohol or use or possess any dangerous drug or other controlled substance without a legal prescription;

(j) if applicable, the defendant shall comply with either a mental health or chemical dependency treatment program, or both;

(k) the defendant shall furnish bail in accordance with 46-9-401; or

(l) the defendant shall return to custody for specified hours following release from employment, schooling, or other approved purposes.

(2) The court may not impose an unreasonable condition that results in pretrial detention of the defendant and shall subject the defendant to the least restrictive condition or combination of conditions that will ensure the defendant's appearance and provide for protection of any person or the community. At any time, the court may, upon a reasonable basis, amend the order to impose additional or different conditions of release upon its own motion or upon the motion of either party.

(3) Whenever a person accused of a violation of 45-5-206, [section 1], 45-5-220, or 45-5-626 is admitted to bail, the detention center shall, as soon as possible under the circumstances, make one and if necessary more reasonable attempts, by means that include but are not limited to certified mail, to notify the alleged victim or, if the alleged victim is a minor, the alleged victim's parent or guardian of the accused's release."

Section 11. Section 46-9-302, MCA, is amended to read:

"46-9-302. Bail schedule – acceptance by peace officer. (1) A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:

(a) any assault on a partner or family member, as partner or family member is defined in 45-5-206;

(b) *strangulation of a partner or family member, as defined in [section 1];*

~~(b)~~(c) stalking, as defined in 45-5-220;

~~(c)~~(d) violation of an order of protection, as defined in 45-5-626; or

~~(d)~~(e) violation of a no contact order, as defined in 45-5-209.

(2) A peace officer may:

(a) accept bail on behalf of a judge:

(i) in accordance with the bail schedule established under subsection (1); or

(ii) whenever the warrant of arrest specifies the amount of bail; or

(b) with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4).

(3) Whenever a peace officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt to the peace officer for the bail delivered.

(4) Whenever a peace officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The peace officer shall deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give the peace officer a receipt acknowledging delivery of the offender's driver's license to the court. After the filing of the complaint and the appearance of the defendant, the judge shall assume jurisdiction and may

extend the date of the driving permit for a period of up to 6 months from the defendant's initial appearance date.

(5) The judge shall return a driver's license that has been accepted in lieu of bail to a defendant:

(a) after the required bail has been posted or there has been a final determination of the charge; and

(b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the court."

Section 12. Section 46-16-226, MCA, is amended to read:

"46-16-226. Definitions. As used in 46-16-226 through 46-16-229, the following definitions apply:

(1) "Child witness" means an individual who is:

(a) 13 years of age or younger at the time the individual is called as a witness in a criminal proceeding involving a sexual or violent offense; or

(b) under 16 years of age at the time that the individual is called as a witness in a criminal proceeding involving a sexual or violent offense and who is an individual with a developmental disability, as defined in 53-20-102.

(2) "Sexual offense" means any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-603, or 45-5-625.

(3) "Violent offense" means any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206, 45-5-210, 45-5-212, 45-5-213, [section 1], 45-5-302, 45-5-303, 45-5-401, 45-6-103, or 45-9-132."

Section 13. Section 46-18-219, MCA, is amended to read:

"46-18-219. Life sentence without possibility of release. (1) (a) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of one of the following offenses or of an offense under the laws of another state or of the United States that, if committed in this state, would be one of the following offenses, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

(i) 45-5-102, deliberate homicide;

(ii) 45-5-303, aggravated kidnapping;

(iii) 45-5-503, sexual intercourse without consent;

(iv) 45-5-625, sexual abuse of children; or

(v) 45-5-627, except subsection (1)(b), ritual abuse of a minor.

(b) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of two of the following offenses, two of any combination of the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or of the United States that, if committed in this state, would be one of the offenses listed in subsection (1)(a) or this subsection, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

(i) 45-5-103, mitigated deliberate homicide;

(ii) 45-5-202, aggravated assault;

(iii) [section 1], strangulation of a partner or family member;

~~(iii)~~(iv) 45-5-302, kidnapping;

~~(iv)~~(v) 45-5-401, robbery; or

~~(v)~~(vi) 45-5-603, aggravated promotion of prostitution.

(2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced under subsection (1):

(a) shall serve the entire sentence;

(b) shall serve the sentence in prison;

(c) may not for any reason, except a medical reason, be transferred for any length of time to another type of institution, facility, or program;

(d) may not be paroled; and

(e) may not be given time off for good behavior or otherwise be given an early release for any reason.

(3) If the offender was previously sentenced for either of two or three offenses listed in subsection (1), pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2) of this section do not apply to the offender's present sentence.

(4) The imposition or execution of the sentences prescribed by this section may not be deferred or suspended. In the event of a conflict between this section and any provision of 46-18-201 or 46-18-205, this section prevails.

(5) (a) For purposes of this section, "prison" means a secure detention facility in which inmates are locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private contractor.

(b) Prison does not include a work release center, prerelease center, boot camp, or any other type of facility that does not provide secure detention."

Section 14. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-502 (if the offender is a professional licensed under Title 37 and commits

the offense during any treatment, consultation, interview, or evaluation of a person's physical or mental condition, ailment, disease, or injury), 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(2)(c), 45-5-504(3) (if the victim is less than 16 years of age and the offender is 4 or more years older than the victim), 45-5-507 (if the victim is less than 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), 45-5-625, 45-5-704, or 45-5-705; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, [section 1], 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

Section 15. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, part 2, and the provisions of Title 45, chapter 5, part 2, apply to [section 1].

Section 16. Effective date. [This act] is effective on passage and approval.

Approved May 19, 2017

CHAPTER NO. 395

[SB 160]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO STREAMLINE CONTRACTING PROCESSES, PAYMENT METHODS, AND ADMINISTRATIVE RULES FOR MEDICAID SERVICES PROVIDED TO INDIVIDUALS SUFFERING FROM MENTAL ILLNESS AND CO-OCCURRING DISORDERS; REQUIRING A REPORT; AND AMENDING SECTION 53-6-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of

providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2); and

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153.

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

- (i) prescribed eyeglasses;
- (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- (k) inpatient psychiatric hospital services for persons under 21 years of age;
- (l) services of professional counselors licensed under Title 37, chapter 23;
- (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;
- (o) services of psychologists licensed under Title 37, chapter 17;
- (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
- (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) (a) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(b) *The department shall strive to close gaps in services provided to individuals suffering from mental illness and co-occurring disorders by doing the following:*

(i) *simplifying administrative rules, payment methods, and contracting processes for providing services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be cost-neutral for the biennium beginning July 1, 2017.*

(ii) *publishing a report on an annual basis that describes the process that a mental health center or chemical dependency facility, as those terms are defined*

in 50-5-101, must utilize in order to receive payment from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Approved May 19, 2017

CHAPTER NO. 396

[SB 167]

AN ACT REVISING LAWS PERTAINING TO INSURANCE OFFENSES; PROVIDING A STATUTE OF LIMITATIONS; CONSOLIDATING CRIMINAL PROVISIONS PERTAINING TO INSURANCE FRAUD; PROVIDING FOR ADMINISTRATIVE OR CIVIL INSURANCE FRAUD; AMENDING SECTIONS 33-1-707, 33-1-1202, 33-1-1205, 33-1-1211, 33-1-1302, 33-2-101, 33-2-104, 33-2-308, 33-2-1120, 33-2-1310, 33-3-304, 33-3-401, 33-3-424, 33-17-1004, 33-17-1102, 33-18-212, 33-22-2009, 33-23-401, AND 45-6-301, MCA; REPEALING SECTIONS 33-1-104, 33-18-401, 33-19-410, AND 33-20-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. No limitation on prosecutions. Nothing in [sections 1 through 12] limits the prosecution of any conduct defined as an offense in Title 45.

Section 2. Application of criminal law and procedure. Unless a rule or statute specifically states otherwise, the provisions of Titles 45 and 46 apply to the enforcement of the offenses provided for in [sections 1 through 12].

Section 3. Statute of limitations. (1) A prosecution for a felony stated in [sections 1 through 12] must be commenced within 5 years after it was committed.

(2) A prosecution for a misdemeanor stated in [sections 1 through 12] must be commenced within 3 years after it was committed.

(3) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(4) A prosecution is commenced either when an indictment is found or an information or complaint is filed.

Section 4. Criminal insurance fraud. (1) A person commits the offense of insurance fraud when the person purposely or knowingly:

(a) for the purpose of obtaining any money or benefit, presents or causes to be presented to any person any written or oral statement, including

computer-generated documents, containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy;

(b) presents or causes to be presented to or by an insurer, as defined in 33-1-201, or to an insurance producer or administrator, as defined in 33-17-102, a materially false or altered application of insurance;

(c) as a health care provider as defined in 33-38-102, submits a false or altered bill or report of physical condition to an insurer; or

(d) presents or causes to be presented false, incomplete, or misleading insurance documents to any person.

(2) (a) A person convicted of criminal insurance fraud involving a benefit or benefits with a value not exceeding \$1,500 shall be fined not more than \$1,500 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) A person convicted of the offense of insurance fraud involving a benefit or benefits with a value exceeding \$1,500 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of insurance fraud involving a common scheme as defined in 45-2-101 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 5. Theft of viatical settlement proceeds. (1) A person commits the offense of theft of viatical settlement proceeds when the person purposely or knowingly obtains or exerts unauthorized control over money, funds, premiums, credits, or other property of a viatical settlement provider, viatical settlement broker, insurer, insured, policy owner, or any other person engaged in the business of viatical settlements.

(2) For purposes of this section, "viatical settlement provider" and "viatical settlement broker" have the meanings provided in 33-20-1302.

(3) (a) A person convicted of theft of viatical settlement proceeds involving property with a value not exceeding \$1,500 shall be fined not more than \$1,500 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) A person convicted of the offense of theft of viatical settlement proceeds involving property with a value exceeding \$1,500 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of viatical settlement proceeds involving a common scheme as defined in 45-2-101 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 6. Theft of medical care discount card fee. (1) A person commits the offense of theft of medical care discount card fee when the person purposely or knowingly obtains or exerts unauthorized control over any amount of money paid by a user or consumer to a health care provider, a medical care discount card provider, or a medical care discount card supplier for a medical care discount card.

(2) For purposes of this section, "medical care discount card", "health care provider", and "medical care discount card provider" have the meanings provided in 33-38-102.

(3) (a) A person convicted of theft of medical care discount card fee involving a value not exceeding \$1,500 shall be fined not more than \$1,500 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) A person convicted of the offense of theft of medical care discount card fee involving a value exceeding \$1,500 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of medical care discount card fee involving a common scheme as defined in 45-2-101 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 7. Theft of pharmacy discount card fee. (1) A person commits the offense of theft of pharmacy discount card fee when the person purposely or knowingly obtains or exerts unauthorized control over any amount of money paid by a user or consumer to a prescription drug provider or a pharmacy discount card supplier for a pharmacy discount card.

(2) For purposes of this section, "pharmacy discount card", "pharmacy discount card supplier", and "prescription drug provider" have the meanings provided in 33-38-102.

(3) (a) A person convicted of theft of pharmacy discount card fee involving a value not exceeding \$1,500 shall be fined not more than \$1,500 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) A person convicted of the offense of theft of pharmacy discount card fee involving a value exceeding \$1,500 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of pharmacy discount card fee involving a common scheme as defined in 45-2-101 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 8. Theft of insurance premium. (1) A person commits the offense of theft of insurance premium when the person purposely or knowingly exerts unauthorized control over money paid as insurance premium:

(a) by failing to provide insurance premium received for a particular insurance policy to the insurer; or

(b) knowing that insurance coverage will not be provided.

(2) For purposes of this section "insurance premium" has the same meaning as "premium" provided in 33-15-102.

(3) (a) A person convicted of theft of insurance premium involving a value not exceeding \$1,500 shall be fined not more than \$1,500 or be imprisoned in the county detention center for not more than 6 months, or both.

(b) A person convicted of the offense of theft of insurance premium involving a value exceeding \$1,500 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of insurance premium involving a common scheme as defined in 45-2-101 shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 9. License offenses. (1) A person commits the offense of conducting an insurance transaction without a license when the person purposely or knowingly solicits, negotiates, or sells insurance, as defined in 33-1-201, without first obtaining a license to conduct insurance transactions from the commissioner of insurance pursuant to Title 33.

(2) Except as provided in subsection (1), a person commits the offense of operating without a required license when the person purposely or knowingly engages in the acts of an insurance adjuster, insurance consultant, public adjuster, or temporary insurance producer, as those acts are set out in

33-17-102, 33-17-103, 33-17-216, and 33-17-1502, without first obtaining a license from the commissioner of insurance pursuant to Title 33.

(3) A corporation or other entity commits the offenses stated in this section when:

(a) a director, officer, servant, employee, or other person who is authorized to act on behalf of the entity commits the prohibited acts; or

(b) a manager or similarly empowered agent of the entity authorizes, requests, or commands the commission of the prohibited acts.

(4) A person convicted of a license offense shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

Section 10. Surplus lines insurance offenses. (1) A person commits the offense of surplus lines offense if the person knowingly or negligently:

(a) issues or delivers a false policy or cover note or certification of insurance, as those documents are described in 33-2-308, related to the terms of a surplus lines insurance policy; or

(b) fails to notify an insured of a material change in the coverage described in 33-2-308 in writing within 30 days of any material change in the insurance coverage.

(2) A person convicted of a surplus lines insurance offense shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not less than 30 days or more than 90 days, or both.

Section 11. Failure or refusal to cooperate with commissioner.

(1) A person commits the offense of failure or refusal to cooperate with the insurance commissioner when the person purposely or knowingly fails or refuses to cooperate with the commissioner during a dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer or an investigation of such matters described in Title 33, chapter 2, part 13.

(2) A corporation or other entity commits the offense of failure or refusal to cooperate with the insurance commissioner when:

(a) a director, officer, servant, employee, or other person who is authorized to act on behalf of the entity purposely or knowingly fails or refuses to cooperate with the commissioner during a dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer or an investigation of such matters described in Title 33, chapter 2, part 13; or

(b) a manager or similarly empowered agent of the entity purposely or knowingly authorizes, requests, or commands the failure or refusal to cooperate with the commissioner during a dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer or an investigation of such matters described in Title 33, chapter 2, part 13.

(3) For purposes of this section, cooperation includes but is not limited to:

(a) responding in writing within 60 days to any written inquiry from the commissioner requesting a response;

(b) making available to the commissioner any information in the insurer's possession, custody or control, regardless of the form in which the information exists; or

(c) engaging in the necessary procedures related to dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of an insurer.

(4) A person or entity convicted of failure or refusal to cooperate with the insurance commissioner shall be fined an amount not to exceed \$10,000 or be imprisoned in a county detention facility for a term not to exceed 1 year, or both.

Section 12. Records and assets offenses. (1) A person commits the offense of unlawful removal or unlawful concealment of records or assets when,

with the purpose to prevent the commissioner from fulfilling the duties set out in Title 33, the person purposely or knowingly removes from this state the records or assets required by 33-3-401 of a domestic insurer as defined in 33-1-201.

(2) A corporation or other entity commits the offense of unlawful removal or unlawful concealment of records or assets when, with the purpose to prevent the commissioner from fulfilling the duties set out in Title 33:

(a) a director, officer, servant, employee, or other person who is authorized to act on behalf of the entity purposely or knowingly removes from this state or conceals the records or assets required by 33-3-401 of a domestic insurer as defined in 33-1-201; or

(b) a manager or similarly empowered agent of the entity purposely or knowingly authorizes, requests, or commands the removal from this state or concealment of the records or assets required by 33-3-401 of a domestic insurer as defined in 33-1-201.

(3) A person or entity convicted of the unlawful removal or unlawful concealment of records or assets shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

Section 13. Section 33-1-707, MCA, is amended to read:

"33-1-707. Statute Administrative or civil action – statute of limitations. (1) Unless otherwise provided by law, the department shall commence an *administrative or civil* action for a violation of the insurance code within 2 years of the date of the violation or within 2 years after the department discovers the violation or, through the use of reasonable diligence, should have discovered the violation, whichever occurs later.

(2) Regardless of when the department discovers a violation or should have discovered a violation through the use of reasonable diligence, the department may not commence an *administrative or civil* action unless it is brought within 5 years of the date of the violation."

Section 14. Section 33-1-1202, MCA, is amended to read:

"33-1-1202. Insurance Administrative or civil insurance fraud. A person commits the act of *administrative or civil* insurance fraud when the person:

(1) for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer, purported insurer, producer, or administrator, as defined in 33-17-102, any written or oral statement, including computer-generated documents, containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy;

(2) assists, abets, solicits, or conspires with another to prepare or make any written or oral statement containing false, incomplete, or misleading information concerning any fact that is intended to be presented to any insurer or purported insurer or in connection with, material to, or in support of any claim for payment or other benefit pursuant to an insurance policy or contract;

(3) presents or causes to be presented to or by an insurer, purported insurer, producer, or administrator, as defined in 33-17-102, a materially false or altered application of insurance;

(4) accepts premium money knowing that coverage will not be provided;

(5) as a health care provider, submits a false or altered bill or report of physical condition to an insurer;

(6) offers or accepts a direct or indirect inducement to file a false statement of claim with the intent of deceiving an insurer; or

(7) presents or causes to be presented counterfeit insurance documents to any person."

Section 15. Section 33-1-1205, MCA, is amended to read:

“33-1-1205. Duties of authorized insurers, adjusters, administrators, consultants, and producers – notice exception. (1) Each insurer, independent adjuster, independent administrator, independent consultant, and independent producer shall cooperate fully with the commissioner with respect to the provisions of this part.

(2) Except as provided in subsection (4), an insurer, an officer, or an employee of the insurer, an independent adjuster, an independent administrator, an independent consultant, or an independent producer who has reason to believe that an insurance fraud has been or is being committed shall provide notice of the alleged insurance fraud to the commissioner within 60 days. A producer of an insurer who has reason to believe that an insurance fraud has been or is being committed shall report the alleged fraud to the insurer within 60 days of discovery of the alleged insurance fraud. The insurer shall review the report. If the insurer determines that there is reasonable likelihood that fraud has occurred, the insurer shall forward the report to the commissioner within 30 days of receipt of the report.

(3) Notice to the commissioner by an insurer who has reason to believe that an insurance fraud has been committed in connection with an insurance claim, application, or policy tolls any applicable time period, for the commissioner, in any applicable insurance statute; *or* related insurance regulation, ~~or applicable sections of the criminal code or any applicable provisions of [sections 1 through 12]~~ and tolls any time period arising under 33-18-232 or 33-18-242 regarding unfair claims settlement practices.

(4) Notice of an alleged insurance fraud involving an insurance claim or application submitted to the state compensation insurance fund or a policy issued by the state compensation insurance fund must be made within 60 days to the fraud detection and prevention unit established pursuant to 39-71-211.”

Section 16. Section 33-1-1211, MCA, is amended to read:

“33-1-1211. Penalties Administrative or civil penalties. (1) If, after a hearing conducted under 33-1-701, the commissioner determines that a person has committed *administrative or civil* insurance fraud, the commissioner may:

(a) impose any penalty provided for in 33-1-317; or

(b) require the person to pay the costs of the proceeding.

(2) ~~Any person who purposely or knowingly commits insurance fraud commits the offense of theft under 45-6-301.~~

~~(3)~~ In addition to any other penalties, the commissioner shall require a person who commits *administrative or civil* insurance fraud to make restitution to the insurer or to any other person for all financial loss sustained as a result of the insurance fraud.”

Section 17. Section 33-1-1302, MCA, is amended to read:

“33-1-1302. Insurance, viatical settlement, medical care discount card, and pharmacy discount card administrative or civil fraud – insurer. (1) A person commits the act of insurance, viatical settlement, medical care discount card, or pharmacy discount card fraud when:

(a) in the course of offering or selling insurance, a medical care discount card, or a pharmacy discount card, the person misrepresents a material fact, known to the person to be untrue or made with reckless indifference as to whether it is true, with the intention of causing another person to rely upon the misrepresentation to that relying person’s detriment; or

(b) with respect to a viatical settlement, the person violates the provisions of 33-1-1304.

(2) A person commits the act of insurance fraud or viatical settlement fraud by engaging in any transaction, act, practice, course of business, or course of dealing that involves a violation of insurable interest laws.

(3) The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of 33-1-1304 or this section. Failure to pay a fine under this section results in a lien upon the assets and property of the person as provided in 33-1-318(3).

(4) In addition to any penalty provided for in 33-1-317, the commissioner may require a person regulated under this title who commits insurance, viatical settlement, medical care discount card, or pharmacy discount card fraud to make full restitution to the victim for all financial losses sustained as a result of the fraud with interest of 10% a year from the date of the fraud plus any costs and reasonable attorney fees, less the amount of any income, refund, or other benefit received by the victim from the insurance, viatical settlement, medical care discount card, or pharmacy discount card.

(5) The commissioner may require a person who commits a violation of this part to make full restitution to any person who may have sustained any losses as a result of the fraud with interest of 10% a year from the date of the loss plus any costs and reasonable attorney fees.

(6) An insurer, insurance producer, or other person who sustained any losses and who was awarded restitution may bring suit to recover those sums, including any attorney fees, interest at 10% a year, and costs incurred in obtaining a judgment.

(7) Failure of a person to pay any amount ordered under this section constitutes a forfeiture of the right to do business in this state.

~~(8) A person who purposely or knowingly is involved in the misappropriation or theft of insurance premiums or proceeds, viatical settlement proceeds, a medical care discount card fee, or a pharmacy discount card fee commits the offense of theft and deceptive practices and is punishable as provided in 45-6-301 and 45-6-317, and the commissioner may refer evidence concerning the violation to the attorney general or other appropriate prosecuting attorney."~~

Section 18. Section 33-2-101, MCA, is amended to read:

"33-2-101. Certificate of authority required—administrative and criminal penalties. (1) Except as expressly otherwise provided in this code, a person acting as an insurer and an insurer transacting insurance in this state must have a subsisting certificate of authority issued by the commissioner.

(2) An insurer that has or maintains in Montana any office, representative, or facility for the solicitation or servicing of any kind of insurance in any other state must be authorized to transact the same kind of insurance in this state.

~~(3) A person who knowingly violates this section is guilty of a felony punishable as provided in 46-18-213 and in addition is subject to the civil penalty provided in 33-1-317."~~

Section 19. Section 33-2-104, MCA, is amended to read:

"33-2-104. Representing or aiding unauthorized insurer prohibited.

(1) A person in this state may not directly or indirectly act as insurance producer for, or otherwise represent or aid on behalf of another, any insurer not authorized to transact insurance in this state in the solicitation, negotiation, or effectuation of insurance or of annuity contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or any other transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state.

(2) This section does not apply to:

(a) acceptance of service of process by the commissioner under 33-1-613; or

(b) surplus lines insurance and other transactions for which a certificate of authority is not required of an insurer as stated in 33-2-102.

~~(3) A person who knowingly violates this section is guilty of a felony punishable as provided in 46-18-213."~~

Section 20. Section 33-2-308, MCA, is amended to read:

~~"33-2-308. Evidence of insurance -- changes -- penalty.~~ (1) Upon placing surplus lines insurance, the surplus lines insurance producer shall promptly issue or deliver to the insured or the producing insurance producer evidence of the insurance, consisting either of the policy as issued by the insurer or, if the policy is not then available, a cover note or certificate of insurance signed or countersigned by the insurance producer. The cover note or certificate must show the subject, coverage, conditions, and term of the insurance, the premium charged and taxes collected from the insured, and the name and address of the insurer. If a direct risk is assumed by more than one insurer, the cover note or certificate must state the name and address and proportion of the entire direct risk assumed by each insurer.

(2) If after the issuance and delivery of any cover note or certificate there is a change as to the identity of the insurers or the proportion of the direct risk assumed by the insurer as stated in the original cover note or certificate or in any other material respect as to the insurance coverage evidenced by the cover note or certificate, the surplus lines insurance producer shall promptly issue or deliver to the insured a substitute cover note or certificate accurately showing the current status of the coverage and the insurers responsible under the coverage.

(3) If a policy issued by the insurer is not available upon placement of the insurance and the surplus lines insurance producer has issued and delivered a cover note or certificate as provided in subsection (2), upon request by the insured, the surplus lines insurance producer shall as soon as reasonably possible procure from the insurer its policy evidencing the insurance and deliver the policy to the insured in replacement of the cover note or certificate previously issued.

~~(4) A surplus lines insurance producer who knowingly or negligently issues or delivers a false cover note or certificate of insurance or fails promptly to notify the insured of a material change with respect to the insurance by delivery to the insured of a substitute cover note or certificate as provided in subsection (2) is guilty of a violation of this code and upon conviction is subject to the penalties provided by 33-1-104 or to any greater applicable penalty otherwise provided by law.~~

(5) A surplus lines insurance producer may not issue or deliver an evidence of insurance or purport to insure or represent that insurance will be or has been written by an eligible surplus lines insurer unless the surplus lines insurance producer has authority from the insurer to cause the risk to be insured or has received information from the insurer in the regular course of business that the insurance has been granted."

Section 21. Section 33-2-1120, MCA, is amended to read:

~~"33-2-1120. Criminal or civil proceedings -- Registration, transaction, and reporting requirements -- administrative or civil penalties.~~ (1) An insurer failing without just cause to file a registration statement as required in 33-2-1111 shall, after notice and hearing, pay a penalty of \$100 for each day of delinquency. The maximum penalty under this subsection is \$25,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) A director or an officer of an insurance holding company system who knowingly violates, participates in, or assents to a transaction or who knowingly permits an officer or insurance producer of the insurer to engage in a transaction or make an investment that has not been properly reported or submitted pursuant to 33-2-1111 or 33-2-1113 or that violates any other provision of Title 33, chapter 2, part 11, shall, after notice and hearing, pay, in the director's or officer's individual capacity, a fine of not more than \$5,000 for each violation. To determine the amount of the fine, the commissioner shall consider the appropriateness of the fine with respect to the gravity of the violation, the history of previous violations, and other matters that justice may require.

(3) If the commissioner determines that an insurer subject to Title 33, chapter 2, part 11, or a director, officer, employee, or insurance producer of the insurer has engaged in a transaction or entered into a contract that is subject to 33-2-1113 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the insurer to void the contract and restore the status quo if that action is in the best interest of policyholders, creditors, or the public.

~~(4) Whenever the commissioner determines that an insurer or a director, officer, employee, or insurance producer of the insurer may have committed a willful violation of this part, the commissioner may cause criminal proceedings to be instituted by the district court for the county in which the principal office of the insurer is located or if the insurer does not have an office in the state, then by the district court for Lewis and Clark County against the insurer or the responsible director, officer, employee, or insurance producer of the insurer.~~

(5) Withholding of information required under 33-2-1104, if lack of that information prevents a full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, is a violation of 33-2-1104 and may serve as an independent basis for:

(a) disapproving dividends or distributions; or

(b) placing the insurer under supervision as provided in 33-2-1321.

~~(6)(5)~~ Any insurer that willfully violates this part may be fined not more than \$25,000.

~~(7) Any individual who willfully violates this part may be fined not more than \$5,000 or, if the willful violation involves the deliberate perpetration of a fraud upon the commissioner, imprisoned for not more than 2 years, or both."~~

Section 22. Section 33-2-1310, MCA, is amended to read:

"33-2-1310. Cooperation of officers, owners, and employees. (1) An officer, manager, director, trustee, owner, employee, or insurance producer of any insurer or any other persons with authority over or in charge of any segment of the insurer's affairs shall cooperate with the commissioner in any proceeding under this part or any investigation preliminary to the proceeding.

(2) (a) The term "person" as used in this section includes any person who exercises control directly or indirectly over activities of an insurer through any holding company or other affiliate of the insurer.

(b) "To cooperate" includes but is not limited to the following:

(i) replying promptly in writing to any inquiry from the commissioner requesting a reply; and

(ii) making available to the commissioner any books, accounts, documents, or other records or information or property of or pertaining to the insurer and in the insurer's possession, custody, or control.

(3) A person may not obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental to the proceeding.

(4) This section may not be construed to abridge otherwise existing legal rights, including the right to resist a petition for liquidation or other delinquency proceedings or other orders.

(5) Any person included within subsection (1) who fails to cooperate with the commissioner or any person who obstructs or interferes with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental to the proceeding or who violates any order the commissioner issued validly under this part may:

~~(a) be sentenced to pay a fine not exceeding \$10,000 or to undergo imprisonment for a term of not more than 1 year, or both; or~~

~~(b) -, after a hearing, be subject to the imposition by the commissioner of a civil penalty not to exceed \$10,000 and to the revocation or suspension of any insurance licenses issued by the commissioner."~~

Section 23. Section 33-3-304, MCA, is amended to read:

"33-3-304. Proxies – corrupt practices – penalty. (1) Every proxy of a stockholder of an insurer, unless coupled with an interest, shall be revocable at will and this provision cannot be waived. The validity of every unrevoked proxy shall cease 11 months after the date of its execution unless some other definite period of validity is expressly provided therein, but in no event shall a proxy, unless coupled with an interest, be voted on after 3 years from the date of its execution.

(2) The revocation of a proxy shall not be effective until notice thereof has been given to the secretary of the insurer.

(3) No person shall buy or sell or barter a vote or proxy, relative to any meeting of stockholders or members of an insurer, or engage in any corrupt or dishonest practice in or relative to the conduct of any such meeting. ~~Violation of this section shall be punishable as provided in 33-1-104."~~

Section 24. Section 33-3-401, MCA, is amended to read:

"33-3-401. Home office and records – administrative or civil penalty for unlawful removal of records or assets. (1) Each domestic insurer shall maintain its principal place of business and home office in this state and shall maintain at its principal place of business or home office complete records of its assets, transactions, and affairs in accordance with methods and systems customary or suitable to the kind or kinds of insurance that it transacts. Records of the insurer's operations and other financial records reasonably related to its insurance operations for the preceding 5 years must be maintained and be available to the commissioner or the commissioner's examiner.

(2) Each domestic insurer shall maintain its assets in this state, except for:

(a) real property and appurtenant personal property lawfully owned by the insurer and located outside this state; and

(b) property of the insurer that is customary, necessary, and convenient to enable and facilitate the operation of its branch offices and regional home offices located outside this state as referred to in subsection (4).

(3) Removal of all or a material part of the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the commissioner under this code or for reasonable purposes and periods of time as may be approved by the commissioner in writing in advance is prohibited. ~~Any person who removes or attempts to remove all or a material part of records or assets from the home office, other place of business, or safekeeping of the insurer in this state with the intent to remove the records or assets from this state or who conceals or attempts to conceal~~

~~records or assets from the commissioner, in violation of this subsection, shall upon conviction be guilty of a felony punishable by a fine of not more than \$10,000 or by imprisonment in the penitentiary for not more than 5 years or by both a fine and imprisonment in the discretion of the court.~~ Upon any removal or attempted removal of records or assets or upon retention of records or assets or a material part of the records or assets outside this state beyond the period specified in the commissioner's consent under which the records were removed or upon concealment of or attempt to conceal records or assets in violation of this section, the commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 2, part 13.

(4) This section does not prohibit or prevent an insurer from:

(a) establishing and maintaining branch offices or regional home offices in other states when necessary or convenient to the transaction of its business and keeping there the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by the out-of-state office, as long as the records and assets are made readily available at that office for examination by the commissioner when requested;

(b) having, depositing, or transmitting funds and assets of the insurer in or to jurisdictions outside of this state as reasonably and customarily required in the regular course of its business;

(c) making deposits under custodial arrangements as provided by 33-2-604(2).

(5) An insurer that fails to maintain records and make them available to the commissioner's staff is subject to the penalties and procedures in 33-1-317, 33-1-318, and 33-2-119."

Section 25. Section 33-3-424, MCA, is amended to read:

"33-3-424. Illegal dividends – administrative or civil penalty. (1) Any director of a domestic stock or mutual insurer who votes for or concurs in declaration or payment of a dividend to stockholders or members other than as authorized under 33-3-422 or 33-3-423 ~~shall upon conviction thereof be guilty of a misdemeanor and~~ shall be jointly and severally liable, together with other such directors likewise voting for or concurring, for any loss thereby sustained by the insurer.

(2) Any stockholder receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

(3) The commissioner may revoke or suspend the certificate of authority of an insurer which has declared or paid such an illegal dividend."

Section 26. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting without license – penalty. (1) In addition to the requirements and penalties described in 33-17-201 and 33-17-411, a person who, in this state, acts without having authority to do so by virtue of a license issued and in force pursuant to this chapter is subject to the provisions of 33-1-317 and 33-1-318 and may be subject to conviction of a crime.

~~(2) A person convicted under this section shall, for a first conviction, be fined \$500 or imprisoned in the county jail for 90 days, or both. For a second conviction, the person shall be fined an amount not to exceed \$1,000 or incarcerated for a term not to exceed 1 year, or both. For a third or subsequent conviction, the person shall be fined an amount not to exceed \$5,000 or incarcerated for a term not to exceed 2 years, or both."~~

Section 27. Section 33-17-1102, MCA, is amended to read:

"33-17-1102. Reporting and accounting for premiums – misappropriation. (1) All insurance premiums or return premiums received by an insurance producer must be held in a separate trust account. The insurance producer shall at all times act in a fiduciary capacity and shall, in

the applicable regular course of business, account for and pay the insurance premiums or return premiums the insurance producer receives to the insured, insurer, or insurance producer entitled to them. Except for a title insurance producer as defined in 33-25-105, an insurance producer may deposit and commingle in the same separate deposit all funds belonging to others so long as the amount of the deposit held for each respective person is reasonably ascertainable from the records and accounts of the licensee.

(2) Any insurance producer not lawfully entitled to the funds may not divert or appropriate the funds or any portion of the funds to the insurance producer's own use.

~~(3) An insurance producer who purposely or knowingly diverts or misappropriates insurance premiums commits theft pursuant to 45-6-301."~~

Section 28. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums – improper charges for insurance. (1) A person may not willfully collect any sum as a premium or charge for insurance that is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this code.

(2) A person may not willfully collect as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to the insurance and, as specified in the policy, in accordance with the applicable classifications and rates filed with or approved by the commissioner; or in cases in which classifications, premiums, or rates are not required by this code to be filed or approved, the premiums and charges may not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision may not prohibit the charging and collection, by surplus lines insurance producers licensed under chapter 2, part 3, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. This provision may not prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(3) This section does not prohibit the charging and collection of a flat fee by a surplus lines insurance producer as specified in 33-2-320 for transaction of surplus lines insurance policies.

~~(4) Each violation of this section is punishable under 33-1-104."~~

Section 29. Section 33-22-2009, MCA, is amended to read:

"33-22-2009. Penalties. (1) The commissioner may, after providing an opportunity for a hearing pursuant to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of this part. Failure to pay a fine under this section results in a lien upon the assets and property of that person in this state and may be recovered by suit by the commissioner and deposited in the special revenue account described in 53-6-1201.

(2) In addition to any penalty provided for in 33-1-317, the commissioner may require a person violating this part to make full restitution to the state, including interest of 10% a year from the date of loss, if a violation of this part caused a premium incentive payment or premium assistance payment to be paid or a tax credit to be issued to a person who was not entitled to it.

(3) A person who purposely or knowingly violates this part and receives a premium incentive payment or premium assistance payment or tax credit that the person is not entitled to commits the offense of ~~theft~~ *criminal insurance fraud*, which is punishable as provided in ~~45-6-301~~ [section 4].

(4) A person who purposely or knowingly violates this part and makes false statements, knowing those statements are not true, commits the offense

of unsworn falsification to authorities, which is punishable as provided in 45-7-203.

(5) Any fines or restitution collected pursuant to this section must be deposited in the special revenue account in 53-6-1201 and dedicated to the payment of premium incentive payments and premium assistance payments or tax credits or funding new programs to assist eligible small employers with the cost of providing health insurance benefits.”

Section 30. Section 33-23-401, MCA, is amended to read:

“33-23-401. Written notice required for cancellation or nonrenewal of insurance policies on homes — penalty. (†) An insurer may not cancel or refuse to renew any policy insuring private residences, including but not limited to fire, home owner, theft, or liability insurance on any home occupied by the insured as a domicile, without first giving to the insured 45 days’ notice in writing, including in the notice a statement of the specific reason or reasons for canceling or not renewing the policy, except that a policy may be canceled for nonpayment of premiums, in which case, the notice to the insured may not be less than 20 days.

~~(2) Violation of this section is punishable under 33-1-104.”~~

Section 31. Section 45-6-301, MCA, is amended to read:

“45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

- (a) has the purpose of depriving the owner of the property;
 - (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
 - (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.
- (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

- (a) has the purpose of depriving the owner of the property;
 - (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
 - (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.
- (3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

- (a) has the purpose of depriving the owner of the property;
 - (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or
 - (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.
- (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

- (a) a knowingly false statement, representation, or impersonation; or
 - (b) a fraudulent scheme or device.
- (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

- (a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

~~(6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance fraud as provided in 33-1-1202 or 33-1-1302;~~

~~(b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102; or~~

~~(c) purposely or knowingly receives small business health insurance premium incentive payments or premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not entitled.~~

~~(7)(6)~~ A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

~~(8)(7)~~ (a) Except as provided in subsection ~~(8)(b)~~ (7)(b), a person convicted of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,500 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) (i) Except as provided in subsection ~~(8)(c)~~ (7)(c), a person convicted of the offense of theft of property exceeding \$1,500 in value or theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

~~(9)(8)~~ Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property."

Section 32. Repealer. The following sections of the Montana Code Annotated are repealed:

33-1-104. General penalty.

33-18-401. False application, claim, and proof of loss -- criminal penalty.

33-19-410. Fraudulent electronic misrepresentation -- penalties -- exemption.

33-20-1003. Violations.

Section 33. Codification instruction. [Sections 1 through 12] are intended to be codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to [sections 1 through 12].

Section 34. Effective date. [This act] is effective on passage and approval.

Section 35. Applicability. [This act] applies to acts committed on or after [the effective date of this act].

Approved May 19, 2017

CHAPTER NO. 397

[SB 172]

AN ACT ALLOWING DENIAL OF HUNTING, FISHING, OR TRAPPING LICENSES FOR FAILURE TO PAY CHILD SUPPORT AND OTHER SUPPORT DEBT OR SUPPORT OBLIGATION; AMENDING SECTIONS 40-5-701, 40-5-704, 40-5-710, AND 40-5-711, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-5-701, MCA, is amended to read:

“40-5-701. Definitions. As used in this part, the following definitions apply:

(1) (a) “Child” means:

(i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States;

(ii) a person under 19 years of age who is still in high school;

(iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person reaching 18 years of age; and

(iv) in IV-D cases, a person for whom:

(A) support rights are assigned under 53-2-613;

(B) a public assistance payment has been made;

(C) the department is providing support enforcement services under 40-5-203; or

(D) the department has received a referral for IV-D services under the provisions of the Uniform Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Reciprocal Enforcement of Support Act, or Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support extending beyond the time the child reaches 18 years of age.

(2) “*Conservation activity*” means an activity for which a wildlife conservation license is issued by the department of fish, wildlife, and parks pursuant to 87-2-201.

(2)(3) “Delinquency” means a support debt or support obligation due under a support order in an amount greater than or equal to 6 months’ support payments as of the date of service of a notice of intent to suspend a license.

(3)(4) “Department” means the department of public health and human services.

(4)(5) “License” means a license, certificate, registration, permit, or any other authorization issued by an agency of the state of Montana granting a person a right or privilege to engage in a business, occupation, profession, ~~recreational~~ conservation activity, or any other privilege that is subject to suspension, revocation, forfeiture, termination, or a declaration of ineligibility to purchase by the licensing authority prior to its date of expiration.

(5)(6) “Licensing authority” means any department, division, board, agency, or instrumentality of this state that issues a license.

(6)(7) “Obligee” means:

(a) a person to whom a support debt or support obligation is owed; or

(b) a public agency of this or another state or an Indian tribe that has the right to receive current or accrued support payments or that is providing support enforcement services under this chapter.

(7)(8) “Obligor” means a person who owes a duty of support or who is subject to a subpoena or warrant in a paternity or child support proceeding.

(8)(9) “Order suspending a license” means an order issued by a support enforcement entity to suspend a license. The order must contain the name of the obligor, the type of license, and, if known, the social security number of the obligor.

(9)(10) “Payment plan” includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and that incorporates voluntary or involuntary income withholding under part 3 or 4 of this chapter or a similar plan for periodic payment of a support debt and, if applicable, current and future support.

~~(10) “Recreational activity” means an activity for which a license or permit is issued by the department of fish, wildlife, and parks under Title 87, chapter 2, part 6 or 7, except 87-2-708 or 87-2-711, or under 87-2-505, 87-2-507, 87-2-508, or 87-2-510.~~

(11) “Subpoena” means a writ or order issued by a court or the department in a proceeding or as part of an investigation related to the paternity or support of a child that commands a person to appear at a particular place and time to testify or produce documents or things under the person’s control.

(12) “Support debt” or “support obligation” means the amount created by the failure to provide or pay:

(a) support to a child under the laws of this or any other state or under a support order;

(b) court-ordered spousal maintenance or other court-ordered support for the child’s custodial parent;

(c) fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and collection of child support or spousal maintenance or support; or

(d) contributions ordered pursuant to 41-5-1525.

(13) “Support enforcement entity” means:

(a) in IV-D cases, the department; or

(b) in all other cases, the district court that entered the support order or a district court in which the support order is registered.

(14) (a) “Support order” means an order that provides a determinable amount for temporary or final periodic payment of a support debt or support obligation and that may include payment of a determinable or indeterminable amount for insurance covering the child issued by:

(i) a district court of this state;

(ii) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;

(iii) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or

(iv) an administrative agency of another state or an Indian tribe with a hearing function and process similar to those of the department.

(b) If an action for child support is commenced under this part and the context so requires, support order also includes:

(i) judgments and orders providing periodic payments for the maintenance or support of the child’s custodial parent; and

(ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and collection of child support or spousal maintenance or support.

(15) "Suspension" includes the withdrawal, withholding, revocation, forfeiture, or nonissuance of a license and license privileges.

(16) "Warrant" means a bench warrant, a warrant to appear, an order to show cause, or any other order issued by a court relating to the appearance of a party in a paternity or child support proceeding.

(17) "IV-D case" means a case in which the department is providing support enforcement services as a result of:

(a) an assignment of support rights under 53-2-613;

(b) a payment of public assistance;

(c) an application for support enforcement services under 40-5-203; or

(d) a referral for services from an agency of another state or an Indian tribe under the provisions of the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or Title IV-D of the Social Security Act."

Section 2. Section 40-5-704, MCA, is amended to read:

"40-5-704. Suspension, denial, and nonrenewal of licenses. (1) Upon receipt of the notice of suspension of the license under 40-5-703(5), a licensing authority shall implement the suspension of the license by:

(a) determining if it has issued a license to the obligor whose name appears on the notice;

(b) entering the suspension on the appropriate records;

(c) reporting the suspension as appropriate;

(d) making good faith efforts to deny ~~recreational~~ *conservation* activity licenses for the next applicable license year; and

(e) if required by law, demanding surrender of the suspended license.

(2) An order issued by a support enforcement entity under 40-5-703 suspending a license and the notice of suspension given under 40-5-703(5) must be processed by the licensing authority without an additional review or hearing involving the licensing authority concerning suspension of the license.

(3) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal of a license, an order issued by a support enforcement entity suspending a license must be implemented by the licensing authority and continues until the support enforcement entity advises the licensing authority that the suspension has been stayed or terminated.

(4) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

(5) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in the business, occupation, profession, ~~recreational~~ *conservation* activity, or other licensed activity while the obligor's license is suspended under this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not to exceed 6 months, or both. Upon conviction of a second or subsequent violation, the obligor shall be punished by a fine of not less than \$500 or more than \$2,000 or by imprisonment in the county jail for a term not to exceed 1 year, or both. The support enforcement entity or the licensing authority may elect the remedy under this section or any other remedy provided for engaging in a licensed activity without a license or while the license is suspended.

(6) The licensing authority is exempt from liability to the licensee for activities conducted in compliance with this part.

(7) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the support enforcement entity suspending a license.

(8) To the extent that inconsistencies exist between this part and the procedural requirements for suspension of a license issued by the department, this part supersedes those requirements.”

Section 3. Section 40-5-710, MCA, is amended to read:

“40-5-710. Stay of suspension of license – payment plan – hardship.

(1) An obligor may at the time of the hearing conducted under 40-5-703 or ~~except for a recreational activity license~~, at any time after the hearing, petition the support enforcement entity for an order staying suspension of the license.

(2) The support enforcement entity shall consider the obligor’s petition for a stay separately from any determination on whether suspension of a license is appropriate.

(3) The support enforcement entity may stay suspension of a license upon a showing that suspension or continued suspension of a license would create a significant hardship to the obligor, to the obligor’s employees, to legal dependents residing in the obligor’s household, or to persons, businesses, or other entities served by the obligor.

(4) A stay terminates upon:

(a) termination of the circumstances upon which a hardship is based;

(b) failure by the obligor to abide by the terms and conditions of a payment plan; or

(c) the date of termination, if any, provided in the order staying suspension of the license.

(5) If the licensing authority has been notified of an order suspending a license, the support enforcement entity shall notify the licensing authority of any stay or reinstatement unless the support enforcement entity has suspended the license of the obligor for another delinquency or for failure to comply with a subpoena or warrant and the suspension for the other delinquency or failure to comply with a subpoena or warrant is still in effect. The support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the obligor.

(6) (a) Upon receipt of a notice staying or reinstating suspension of the license, the licensing authority shall:

(i) enter the information on appropriate records;

(ii) report the action as appropriate; and

(iii) demand surrender of the suspended license or return the reinstated license.

(b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of suspension of the license.”

Section 4. Section 40-5-711, MCA, is amended to read:

“40-5-711. Termination of order to suspend license. (1) Except as provided in subsection (3), when the support enforcement entity determines that the support debt or support obligation is paid in full or the obligor has complied with the subpoena or warrant, it shall terminate the order suspending the license. The support enforcement entity shall send a copy of the order terminating the suspension of the license to the obligor.

(2) Entry of an order terminating suspension of a license does not limit the ability of a support enforcement entity to issue a new order suspending the license of the same obligor in the event of another delinquency or failure to comply with a subpoena or warrant.

(3) A suspension of a ~~recreational~~ *conservation* activity license is effective for the license year. The suspension does not terminate if the support enforcement entity determines that the support debt or support obligation is paid in full or the obligor has complied with the subpoena or warrant.”

Section 5. Effective date. [This act] is effective July 1, 2017.

Approved May 19, 2017

CHAPTER NO. 398

[SB 198]

AN ACT ESTABLISHING REQUIREMENTS FOR THE EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT BENEFIT UNDER MEDICAID; AMENDING SECTION 53-6-101, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-6-101, MCA, is amended to read:

“53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians’ services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, *in accordance with federal regulations and subsection (10)(b)*;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2); and

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153.

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) services of psychologists licensed under Title 37, chapter 17;

(p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

(q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion,

may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) *The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.*

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Section 2. Effective date. [This act] is effective July 1, 2017.

Approved May 19, 2017

CHAPTER NO. 399

[SB 199]

AN ACT REQUIRING THE HEALTHY MONTANA KIDS PLAN TO COVER HABILITATIVE SERVICES; PROVIDING A DEFINITION; AMENDING SECTIONS 53-4-1005, 53-4-1103, AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-4-1005, MCA, is amended to read:

"53-4-1005. (Temporary) Benefits provided. (1) Benefits provided to participants in the program may include but are not limited to:

- (a) inpatient and outpatient hospital services;
- (b) physician and advanced practice registered nurse services;
- (c) laboratory and x-ray services;
- (d) well-child and well-baby services;
- (e) immunizations;
- (f) clinic services;
- (g) dental services;
- (h) prescription drugs;

(i) mental health and substance abuse treatment services;

(j) *habilitative services as defined in 53-4-1103*;

~~(k)~~(k) hearing and vision exams; and

~~(l)~~(l) eyeglasses.

(2) The program must comply with the provisions of 33-22-153.

(3) The department shall adopt rules, pursuant to its authority under 53-4-1009, allowing it to cover significant dental needs beyond those covered in the basic plan. Expenditures under this subsection may not exceed \$100,000 in state funds, plus any matched federal funds, each fiscal year.

(4) The department is specifically prohibited from providing payment for birth control contraceptives under this program.

(5) The department shall notify enrollees of any restrictions on access to health care providers, of any restrictions on the availability of services by out-of-state providers, and of the methodology for an out-of-state provider to be an eligible provider. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999; sec. 3, Ch. 169, L. 2007; sec. 10, Ch. 97, L. 2013.)

Section 2. Section 53-4-1103, MCA, is amended to read:

"53-4-1103. Definitions. For purposes of *part 10* and this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "*Habilitative services*" means services to help a child maintain, learn, or improve skills and functioning for daily living or to prevent deterioration of skills and that may be offered in a variety of settings. The services include but are not limited to:

(a) *physical therapy*;

(b) *occupational therapy*;

(c) *speech-language pathology*; and

(d) *behavioral health treatment, including applied behavior analysis provided by a board-certified behavior analyst.*

(5)(6) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

~~(6)~~(7) "Income" has the meaning provided in 15-30-2337(9)(a).

~~(7)~~(8) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(8)(9) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

~~(9)~~(10) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

Section 3. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of

providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2); and

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153; and

(n) *for children 18 years of age and younger, habilitative services as defined in 53-4-1103.*

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

- (g) clinical social worker services;
- (h) prescribed drugs, dentures, and prosthetic devices;
- (i) prescribed eyeglasses;
- (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
- (k) inpatient psychiatric hospital services for persons under 21 years of age;
- (l) services of professional counselors licensed under Title 37, chapter 23;
- (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;
- (o) services of psychologists licensed under Title 37, chapter 17;
- (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
- (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Section 4. Effective date. [This act] is effective July 1, 2017.

Section 5. Contingent termination. [Section 1] terminates on occurrence of the contingency contained in section 15, Chapter 571, Laws of 1999.

Approved May 19, 2017

CHAPTER NO. 400

[SB 205]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PLAN FOR IMPROVED DELIVERY OF CARE FOR CERTAIN HEART ATTACK PATIENTS; REQUIRING MONITORING OF A NATIONAL DATABASE; REQUIRING CERTAIN HOSPITALS TO PARTICIPATE IN THE DATABASE; REQUIRING A REPORT; PROVIDING DEFINITIONS; AND AMENDING SECTION 50-17-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-17-102, MCA, is amended to read:

"50-17-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) *"Acute heart attack" means a heart attack that involves a prolonged period of blocked blood supply, affects a large area of the heart, and is measured by an elevation of the ST segment of an electrocardiogram.*

(1)(2) *"Approved course of treatment" means a course of treatment for tuberculosis that includes medical treatment prescribed by a physician and consistent with accepted medical standards, as well as appropriate followup to ensure public health and safety as set out in the rules of the department.*

(3) *"Critical access hospital" has the meaning provided in 50-5-101.*

(2)(4) *"Department" means the department of public health and human services provided for in 2-15-2201.*

(5) *"Emergency medical service" has the meaning provided in 50-6-302.*

(3)(6) *"Hospital" has the meaning provided in 50-5-101.*

(4)(7) *"Local board" means a city, county, city-county, or district board of health.*

(8) *"Receiving hospital" means a hospital capable of performing coronary revascularization for a patient suffering an acute heart attack.*

(5)(9) *"Treatment location" or "location" means a hospital or other place designated by a local health officer where the person diagnosed with tuberculosis must remain to be available for an approved course of treatment.*

(6)(10) (a) *"Tuberculosis" means a disease caused by mycobacterium tuberculosis or mycobacterium tuberculosis complex.*

(b) *The term does not include infection by mycobacterium bovis in a nonpulmonary site that is a result of instillation of bacille calmette-guerin as part of cancer therapy."*

Section 2. Department monitoring of acute heart attack data – reporting requirement. (1) The department shall undertake the following activities to achieve continuous quality improvement in the response to and treatment of acute heart attacks:

(a) monitor data reported to and analyses generated by a national data platform, including prehospital, hospital, and posthospital measures;

(b) identify potential interventions or practices to improve the response to acute heart attacks in Montana or in specific regions of the state;

(c) work with hospitals, critical access hospitals, and emergency medical service providers on the reporting of data and on using the results of data analysis; and

(d) make recommendations to the legislature and to hospitals, critical access hospitals, emergency medical service providers, and health care providers on ways to improve the response to and delivery of care for acute heart attacks.

(2) The department shall coordinate its efforts under [sections 2 through 4] with state and national organizations involved in quality improvement for acute heart attacks in order to avoid duplication of efforts.

(3) The department shall establish an oversight process and implement a plan for achieving continuous quality improvement in the quality of care provided for acute heart attacks, including the system response to and the treatment of acute heart attacks.

Section 3. Reporting and review of acute heart attack data. To improve the response to and treatment of acute heart attacks, the department shall:

(1) require receiving hospitals to report to the national data platform information consistent with nationally recognized guidelines on the treatment of individuals with confirmed acute heart attacks;

(2) encourage hospitals, critical access hospitals, and emergency medical service providers that refer patients suffering acute heart attacks to a receiving hospital to participate in the national data platform;

(3) encourage health care professionals who provide care to patients with acute heart attacks to share data and discuss ways to improve the quality of care for the patients;

(4) encourage the use of evidence-based treatment guidelines for helping patients obtain ongoing community-based followup care in outpatient settings after discharge from a hospital; and

(5) work with hospitals, critical access hospitals, and emergency medical service providers to develop recommendations for improving the delivery of care to patients suffering acute heart attacks.

Section 4. Confidentiality. (1) In reporting and reviewing data pursuant to [sections 2 through 4], the department, hospitals, critical access hospitals, emergency medical service providers, and health care professionals shall comply with any restrictions established on use of the information contained in the data platform the department is monitoring.

(2) Information obtained by the department pursuant to [sections 2 through 4] may be released only in a statistical, nonidentifiable form.

Section 5. Codification instruction. [Sections 2 through 4] are intended to be codified as an integral part of Title 50, chapter 17, and the provisions of Title 50, chapter 17, apply to [sections 2 through 4].

Approved May 19, 2017

CHAPTER NO. 401

[SB 250]

AN ACT REVISING LAWS REGARDING PROSECUTORIAL IMMUNITY; PROVIDING QUALIFIED IMMUNITY FOR PROSECUTORS, PUBLIC SAFETY OFFICERS, AND LOCAL GOVERNMENTS REGARDING CLAIMS

ARISING FROM AN ADMINISTRATIVE OR INVESTIGATORY FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; PROVIDING ABSOLUTE IMMUNITY FOR PROSECUTORS FOR CLAIMS ARISING OUT OF A JUDICIAL FUNCTION ALLEGING A VIOLATION OF ARTICLE II, SECTION 36, OF THE MONTANA CONSTITUTION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Prosecutorial immunity. (1) A prosecutor performing a judicial function is absolutely immune from a claim based on Article II, section 36, of the Montana constitution.

(2) A prosecutor performing an administrative function or an investigatory function has qualified immunity for a claim based on Article II, section 36, of the Montana constitution.

(3) A public safety officer has qualified immunity for a claim based on Article II, section 36, of the Montana constitution.

(4) Local governments and the state of Montana are immune from a claim based on Article II, section 36, of the Montana constitution.

(5) The provisions of Article II, section 36, of the Montana constitution have no effect on the duty of the state of Montana or a local government to defend or indemnify prosecutors and public safety officers from a claim based on Article II, section 36, of the Montana constitution.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, and the provisions of Title 46 apply to [section 1].

Section 3. Two-thirds vote required. Because [section 1] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 19, 2017

CHAPTER NO. 402

[SB 272]

AN ACT CREATING A NEW LICENSE FOR ASSISTED LIVING FACILITIES FOR THOSE WITH DEMENTIA OR OTHER MENTAL DISORDERS WHO MIGHT BE A HARM TO THEMSELVES OR OTHERS; PROVIDING AN INVOLUNTARY COMMITMENT DIVERSION OPTION; AMENDING LAWS RELATED TO INVOLUNTARY COMMITMENT TO ADDRESS THE ADDED DIVERSION ALTERNATIVE; AND AMENDING SECTIONS 50-5-226, 50-5-227, 53-21-122, 53-21-123, 53-21-127, 53-21-181, AND 53-21-198, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Option for diversion from involuntary commitment to Montana state hospital. (1) Subject to subsection (3), a person with a mental disorder who is detained under 53-21-120(4) may, upon meeting the requirements in 50-5-226(5), request diversion to a category D assisted living facility.

(2) If a court, after obtaining the results of an examination as provided in 53-21-123, finds that a short-term inpatient treatment is inappropriate for a person who otherwise is eligible for involuntary commitment to the Montana

state hospital, the court may initiate the process necessary to determine eligibility for residency in a category D assisted living facility.

(3) For a person to be eligible for diversion from the Montana state hospital to a category D assisted living facility, a court determination and an examination under 53-21-123 must indicate that the person:

- (a) is not suffering acute psychosis;
- (b) is experiencing behavioral patterns that may make the person a danger to self or others;
- (c) is dependent on assistance for two or more activities of daily living; and
- (d) is more likely to benefit from being in a category D assisted living facility than in the Montana mental health nursing care center or the Montana state hospital.

Section 2. Section 50-5-226, MCA, is amended to read:

“50-5-226. Placement in assisted living facilities. (1) An assisted living facility may provide personal-care services to a resident who is 18 years of age or older and in need of the personal care for which the facility is licensed under 50-5-227.

(2) An assisted living facility licensed as a category A facility under 50-5-227 may not admit or retain a category A resident unless each of the following conditions is met:

- (a) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.
- (b) The resident may not have a stage 3 or stage 4 pressure ulcer.
- (c) The resident may not have a gastrostomy or jejunostomy tube.
- (d) The resident may not require skilled nursing care or other skilled services on a continued basis except for the administration of medications consistent with applicable laws and regulations.
- (e) The resident may not be a danger to self or others.
- (f) The resident must be able to accomplish activities of daily living with supervision and assistance based on the following:
 - (i) the resident may not be consistently and totally dependent in four or more activities of daily living as a result of a cognitive or physical impairment; and
 - (ii) the resident may not have a severe cognitive impairment that renders the resident incapable of expressing needs or making basic care decisions.

(3) An assisted living facility licensed as a category B facility under 50-5-227 may not admit or retain a category B resident unless each of the following conditions is met:

- (a) The resident may require skilled nursing care or other services for more than 30 days for an incident, for more than 120 days a year that may be provided or arranged for by either the facility or the resident, and as provided for in the facility agreement.
- (b) The resident may be consistently and totally dependent in more than four activities of daily living.
- (c) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.
- (d) The resident may not be a danger to self or others.
- (e) The resident must have a practitioner's written order for admission as a category B resident and written orders for care.
- (f) The resident must have a signed health care assessment, renewed on a quarterly basis by a licensed health care professional who:

(i) actually visited the facility within the calendar quarter covered by the assessment;

(ii) has certified that the particular needs of the resident can be adequately met in the facility; and

(iii) has certified that there has been no significant change in health care status that would require another level of care.

(4) An assisted living facility licensed as a category C facility under 50-5-227 may not admit or retain a category C resident unless each of the following conditions is met:

(a) The resident has a severe cognitive impairment that renders the resident incapable of expressing needs or of making basic care decisions.

(b) The resident may be at risk for leaving the facility without regard for personal safety.

(c) Except as provided in subsection (4)(b), the resident may not be a danger to self or others.

(d) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(5) (a) An assisted living facility licensed as a category D facility under 50-5-227 may not admit or retain a category D resident unless each of the conditions in subsections (5)(b) and (5)(c) is met or a court has ordered diversion as provided in subsection (5)(d).

(b) The resident must be dependent on assistance for two or more activities of daily living and may require skilled nursing care or other services that may be provided or arranged for by either the facility or the resident or provided for in the facility agreement.

(c) The resident must be assessed by a practitioner or adjudged by a court as having been or potentially being a danger to self or others. The practitioner shall submit both a health care assessment, renewed on a monthly basis, and a written order for care that:

(i) provides information on behavioral patterns under which the category D resident may pose a threat to others and may need to be kept separate from other category D residents or residents in other categories of assisted care;

(ii) lists the conditions under which the category D resident can be reasonably, temporarily restrained, using protective restraints, medications, or confinement to avoid harm to the resident or others;

(iii) includes a reason why a category D assisted living facility is more appropriate than other options for care and provides an assessment of the resident's needs and plan for care; and

(iv) indicates the timeframe over which the resident's health care status has remained the same or changed.

(d) A court may order a diversion from an involuntary commitment to Montana state hospital or from the Montana mental health care center as provided in 53-21-127 or [section 1]. A diversion ordered pursuant to [section 1] may be an involuntary commitment but must be treated as provided in 53-21-181.

~~(5)(6)~~ For category B~~and~~, C, and D residents, the assisted living facility shall specify services that it will provide in the facility admission criteria.

~~(6)(7)~~ The department shall develop standardized forms and education and training materials to provide to the assisted living facilities and to the licensed health care professionals who are responsible for the signed statements provided for in subsection (3)(f). The use of the standardized forms is voluntary.

~~(7)(8)~~ The department shall provide by rule:

(a) an application or placement procedure informing a prospective resident and, if applicable, the resident's practitioner of:

(i) physical and mental standards for residents of assisted living facilities;

(ii) requirements for placement in a facility with a higher standard of care if a resident's condition deteriorates; and

(iii) the services offered by the facility and services that a resident may receive from third-party providers while the resident lives at the facility;

(b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents and prospective residents to prevent residence by individuals referred to in subsections (3) ~~and~~, (4), *and* (5). *An individual subject to 46-14-301 is not eligible to be placed in a category D assisted living facility.;*

(c) a method by which the results of any screening decision made pursuant to rules established under subsection ~~(7)(b)~~ *(8)(b)* may be appealed by the facility operator or by or on behalf of a resident or prospective resident;

(d) standards for operating a category A assisted living facility, including standards for the physical, structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping components of a facility and the storage and administration of over-the-counter and prescription medications; ~~and~~

(e) standards for operating a category B assisted living facility, which must include the standards for a category A assisted living facility and additional standards for assessment of residents, care planning, qualifications and training of staff, prevention and care of pressure sores, and incontinence care; and

(f) standards for operating a category C *and a category D* assisted living facility, which must include the standards for a category B assisted living facility and additional standards for resident assessment, the provision of specialty care to residents with cognitive impairments, and additional qualifications of and training for the administrator and direct-care staff. *The standards for a category D assisted living facility must also include specific safety and restraint training."*

Section 3. Section 50-5-227, MCA, is amended to read:

"50-5-227. Licensing assisted living facilities. (1) The department shall by rule adopt standards for licensing and operation of assisted living facilities to implement the provisions of 50-5-225 and 50-5-226.

(2) The following licensing categories must be used by the department in adopting rules under subsection (1):

(a) category A facility serving residents requiring the level of care as provided for in 50-5-226(2);

(b) category B facility providing skilled nursing care or other skilled services to five or fewer residents who meet the requirements stated in 50-5-226(3); ~~or~~

(c) category C facility providing services to residents with cognitive impairments requiring the level of care stated in 50-5-226(4); or

(d) category D facility providing services to residents with mental disorders who may be a temporary harm to themselves or others and who require the level of care stated in 50-5-226(5).

(3) (a) A single facility meeting the applicable requirements for a category A facility may additionally be licensed to provide category B or category C services with the approval of the department.

(b) If a single facility meeting the applicable requirements as provided in subsection (3)(a) further seeks to be licensed as a category D facility, the facility shall provide documentation that indicates the facility can keep all residents safe.

(4) The department may by rule establish license fees, inspection fees, and fees for patient screening. Fees must be reasonably related to service costs.”

Section 4. Section 53-21-122, MCA, is amended to read:

“53-21-122. Petition for commitment – filing of – initial hearing on.

(1) The petition must be filed with the clerk of court who shall immediately notify the judge.

(2) (a) The judge shall consider the petition. If the judge finds no probable cause, the petition must be dismissed. If the judge finds probable cause and the respondent does not have private counsel present, the judge may order the office of state public defender, provided for in 47-1-201, to immediately assign counsel for the respondent, and the respondent must be brought before the court with the respondent’s counsel. The respondent must be advised of the respondent’s constitutional rights, the respondent’s rights under this part, and the substantive effect of the petition. The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person’s report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for in 53-21-1205 and 53-21-1206 *or to a category D assisted living facility as provided in [section 1]*. The respondent may at this appearance object to the finding of probable cause for filing the petition. The judge shall appoint a professional person and set a date and time for the hearing on the petition that may not be on the same day as the initial appearance and that may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent.

(b) If the court finds that an appropriate person is willing and able to perform the functions of a friend of respondent as set out in this part and the respondent personally or through counsel consents, the court shall appoint the person as the friend of respondent. The friend of respondent may be the next of kin, the person’s conservator or legal guardian, if any, a representative of a charitable or religious organization, or any other person appointed by the court. Only one person may at any one time be the friend of respondent within the meaning of this part. The court may at any time, for good cause, change its designation of the friend of respondent. The court shall change the designation of the friend of respondent at the request of the respondent or if it determines that a conflict of interest exists between the respondent and the friend of respondent.

(3) If a judge is not available in the county in person, the clerk shall notify a resident judge by telephone and shall read the petition to the judge. The judge may do all things necessary through the clerk of court by telephone as if the judge were personally present, including ordering the office of state public defender, provided for in 47-1-201, to immediately provide assigned counsel. The judge, through the clerk of court, may also order that the respondent be brought before a justice of the peace with the respondent’s counsel to be advised of the respondent’s constitutional rights, the respondent’s rights under this part, and the contents of the order, as well as to furnish the respondent with a copy of the order. The respondent must also be advised that the professional person appointed to conduct the examination under 53-21-123 will include in the professional person’s report a recommendation about whether the respondent should be diverted from involuntary commitment to short-term inpatient treatment provided for in 53-21-1205 and 53-21-1206 *or to a category D assisted living facility as provided in [section 1]*. The justice of the peace shall ascertain the desires of the respondent with respect to the assignment of counsel or the hiring of private counsel, pursuant to 53-21-116 and 53-21-117,

and this information must be immediately communicated to the resident judge.”

Section 5. Section 53-21-123, MCA, is amended to read:

“53-21-123. Examination of respondent following initial hearing – recommendation of professional person. (1) Following the initial hearing, whether before a judge or justice of the peace, the respondent must be examined by the professional person without unreasonable delay. The examination may not exceed a period of 4 hours. The professional person shall immediately notify the county attorney of the findings in person or by phone and shall make a written report of the examination to the court, with copies to the respondent’s attorney and the county attorney.

(2) (a) The professional person shall include in the report a recommendation about whether the respondent should be:

(i) diverted from involuntary commitment to short-term inpatient treatment provided for under 53-21-1205 and 53-21-1206; or

(ii) *evaluated for eligibility as a resident in a category D assisted living facility as provided in [section 1].*

(b) If the professional person recommends commitment, the professional person’s written report must contain a statement of the professional person’s recommendations to the court for disposition under 53-21-127.

(3) The following action must be taken based on the professional person’s findings:

(a) If the professional person recommends dismissal, the professional person shall additionally notify counsel and the respondent must be released and the petition dismissed. However, the county attorney may, upon good cause shown, request the court to order an additional, but no more than one, examination by a different professional person for a period of no more than 4 hours.

(b) If the professional person recommends diversion from involuntary commitment to short-term inpatient treatment *or an option for living in a category D assisted living facility*, the court shall suspend the commitment hearing unless the county attorney or the respondent’s attorney objects within 24 hours of receiving notice of the professional person’s recommendation.

(c) If the court finds that commitment proceedings should continue, the hearing must be held as scheduled.

(4) The court may not order further evaluation pending the hearing unless sound medical reasons require additional time for a complete evaluation. The reasons must be set forth in the order, along with the amount of additional time needed.”

Section 6. Section 53-21-127, MCA, is amended to read:

“53-21-127. Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed.

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a behavioral health inpatient facility for a period of not more than 3 months;

(b) commit the respondent to a community facility, *which may include a category D assisted living facility*, or a community program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i) not more than 3 months; or

(ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided in 53-21-190; or

(c) commit the respondent to the Montana mental health nursing care center for a period of not more than 3 months if the following conditions are met:

(i) the respondent meets the admission criteria of the center as described in 53-21-411 and established in administrative rules of the department; and

(ii) the superintendent of the center has issued a written authorization specifying a date and time for admission.

(4) Except as provided in subsection (3)(b)(ii), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

(7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community facility, *which may include a category D assisted living*

facility, or a program or an appropriate course of treatment, as provided in subsection (3)(b), and may not require commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

(8) In ordering commitment pursuant to this section, the court shall make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives;

(g) if the order commits the respondent to the Montana mental health nursing care center, a finding that the respondent meets the admission criteria of the center and that the superintendent of the center has issued a written authorization specifying a date and time for admission;

(h) if the order provides for an evaluation to determine eligibility for entering a category D assisted living facility, a finding that indicates whether:

(i) the respondent meets the admission criteria;

(ii) there is availability in a category D assisted living facility; and

(iii) a category D assisted living facility is the least restrictive environment because the respondent is unlikely to benefit from involuntary commitment to facilities with more intensive treatment; and

(h)(i) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives."

Section 7. Section 53-21-181, MCA, is amended to read:

"53-21-181. Discharge during or at end of initial commitment period – patient's right to referral. (1) (a) At any time within the period of commitment provided for in 53-21-127, the patient may be discharged on the written order of the professional person in charge of the patient.

(b) If the patient is not discharged within the period of commitment and if the term is not extended as provided for in 53-21-128, ~~the~~ *a patient whose commitment was to a facility other than a category D assisted living facility* must be discharged by the facility at the end of the period of commitment without further order of the court.

(c) A patient who was committed to a category D assisted living facility may be discharged from supervision by the court but may remain as a resident if the category D assisted living facility and the patient agree.

(2) Notice of the discharge must be filed with the court and the county attorney at least 5 days prior to the discharge.

~~(2)(3)~~ Upon being discharged, each patient has a right to be referred, as appropriate, to other providers of mental health services."

Section 8. Section 53-21-198, MCA, is amended to read:

"53-21-198. Extension of conditions of release – hearing. (1) (a) **Conditions** *Subject to the provisions of subsection (1)(b), conditions of release* may be extended by the district court beyond the expiration date of the order committing the patient under 53-21-127 or 53-21-128, but in no case for longer than 2 years beyond that date, upon a showing by clear and convincing evidence that:

(a)(i) continuation of the conditions of release is necessary to prevent the deterioration of the patient's mental disorder; and

(b)(ii) the deterioration will predictably result in the necessity of further inpatient care for the patient. Predictability may be established by the patient's medical history.

(b) *The 2-year limit beyond the expiration date of a commitment order under 53-21-127 does not apply to a patient who was diverted from the Montana state hospital or the Montana mental health nursing care center to a category D assisted living facility, subject to completion of the evaluation required under subsection (2).*

(2) Not less than 2 calendar weeks prior to the end of the period of detention ordered under 53-21-127 or 53-21-128 or the period of extension ordered under subsection (5) of this section, the professional person responsible for the patient's case may petition the court for extension of the conditions of release. The petition must be accompanied by a written report and evaluation of the patient's mental and physical condition. The report must describe any tests and evaluation devices that have been employed in evaluating the patient, the course of treatment that has been undertaken for the patient, and the future course of treatment anticipated by the professional person.

(3) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, the patient's next of kin, if reasonably available, the friend or respondent appointed by the court, if any, and the patient's counsel. If any person notified requests a hearing prior to the end of the period of detention ordered under 53-21-127 or 53-21-128, the court shall immediately set a time and place for a hearing on a date not more than 10 days from the receipt of the request and notify the same people, including the professional person in charge of the patient. If a hearing is not requested, the court shall enter an order extending the conditions of release for a period not to exceed 6 months.

(4) Procedure on the petition for extension is the same in all respects as the procedure for hearing on a rehospitalization petition pursuant to 53-21-197. However, in an extension proceeding, the finding required is that set forth in subsection (1) of this section. The hearing must be held in the district court for the county in which the patient is residing. Court costs and witness fees, if any, must be paid by the county that paid the same costs in the initial commitment proceeding.

(5) If upon the hearing the court finds that the showing required by subsection (1) has not been made, the conditions of release may not be extended, *except as provided in subsection (1)(b)*. If the court finds that the required showing has been made, the court may extend the conditions of release as recommended by the professional person. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and why the investigated alternatives were not considered suitable. The court may not order continuation of an alternative that does not include a comprehensive, individualized plan of treatment for the patient, as required by 53-21-162. A court order for the continuation of an alternative must include a specific finding that a comprehensive, individualized plan of treatment exists.

(6) Further extensions may be obtained under the same procedure described in this section. However, the patient's custody may not be affected for more than 1 year without a renewal of the extension under the procedures set forth in this section, including a hearing and a statement of the findings required by subsection (5). Extensions under this subsection may not extend the 2-year

extension limitation provided in subsection (1), *subject to the exception in subsection (1)(b).*”

Section 9. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 5, and the provisions of Title 50, chapter 5, apply to [section 1].

Approved May 19, 2017

CHAPTER NO. 403

[SB 302]

AN ACT REVISING GAMBLING LAWS TO ALLOW PAYMENT OF CONSIDERATION BY CASH, CHECK, OR DEBIT CARD; ALLOWING PAYMENTS FOR CALCUTTA POOLS, RAFFLES, CASINO NIGHTS, AND CARD GAMES NORMALLY SCORED USING POINTS; AND AMENDING SECTION 23-5-157, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-157, MCA, is amended to read:

“23-5-157. Gambling on cash basis – penalties. (1) (a) ~~In Except as provided in subsection (1)(b), in every gambling activity, except raffles as authorized in 23-5-413 and card games authorized in part 3 of this chapter and normally scored using points;~~ the consideration paid for the chance to play must be made in cash. A check or debit card may be used to obtain cash to participate in a gambling activity. A participant shall present the cash needed to play the game as the game is being played. If a check or debit card is used to obtain cash on the premises of a licensee then it must be delivered and accepted unconditionally. A licensee or employee of a licensee may not hold a check or other evidence of indebtedness for redemption pending the outcome of a gambling activity.

(b) *The consideration for the chance to participate in Calcutta pools as provided in 23-5-222, raffles as provided in 23-5-413, casino nights as provided in 23-5-702, and card games normally scored using points as provided in Title 23, chapter 5, part 3, may be paid by cash, check, or debit card.*

(b)(c) Credit gambling is prohibited. Credit gambling is offering or accepting as part of the price of participation in a gambling activity or as payment of a debt incurred in a gambling activity:

(i) a check, credit card, or debit card held pending the outcome of a gambling activity;

(ii) a loan of any kind at any time from or on behalf of a licensee;

(iii) any form of deferred payment, including a note, IOU, post-dated check, hold check, or other evidence of indebtedness; or

(iv) a check issued or delivered that is accepted by the licensee with the knowledge that it will not be paid by the depository.

(2) A person who violates this section is guilty of a criminal offense under 23-5-156 and must be punished in accordance with 23-5-161 or 23-5-162.”

Approved May 19, 2017

CHAPTER NO. 404

[SB 307]

AN ACT GENERALLY REVISING LAWS RELATED TO SCHOOL FUNDING; REQUIRING TRUSTEES TO ADOPT A RESOLUTION WITH PUBLIC

NOTICE PRIOR TO INCREASING NONVOTED LEVIES; MAKING A SCHOOL DISTRICT'S ABILITY TO TRANSFER FUNDS FOR SCHOOL SAFETY PURPOSES PERMANENT; REQUIRING SUBFUNDS TO ACCOUNT FOR VARIOUS REVENUES AND USES OF THE BUILDING RESERVE FUND; AUTHORIZING A LIMITED LEVY FOR SCHOOL MAJOR MAINTENANCE WITH STATE SUPPORT; RENAMING THE SCHOOL FACILITY REIMBURSEMENT PROGRAM THE DEBT SERVICE ASSISTANCE PROGRAM; CREATING A STATE SPECIAL REVENUE ACCOUNT AND PROGRAM FOR SCHOOL MAJOR MAINTENANCE AID; PHASING OUT THE QUALITY SCHOOLS FACILITY GRANT PROGRAM; AMENDING SECTIONS 20-6-702, 20-9-236, 20-9-343, 20-9-367, 20-9-502, AND 20-9-516, MCA; REPEALING SECTIONS 90-6-801, 90-6-802, 90-6-803, 90-6-809, 90-6-810, 90-6-811, 90-6-812, 90-6-818, AND 90-6-819, MCA; REPEALING SECTION 12, CHAPTER 364, LAWS OF 2013, AND SECTION 3, CHAPTER 323, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Resolution of intent to increase nonvoted levy – notice.

(1) The trustees of a school district shall adopt a resolution no later than June 1 in fiscal year 2017 only and no later than March 31 in fiscal years 2018 and subsequent fiscal years and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:

- (a) the tuition fund under 20-5-324;
- (b) the adult education fund under 20-7-705;
- (c) the building reserve fund under 20-9-502 and 20-9-503;
- (d) the transportation fund under 20-10-143 and 20-10-144; and
- (e) the bus depreciation reserve fund under 20-10-147.

(2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1)(a) through (1)(e) imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

(b) publishing a copy of the resolution in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting a copy of the resolution to the school district's website.

Section 2. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in accordance with the provisions of 20-9-311;

(b) the basic county tax for elementary equalization and revenue for the elementary BASE funding program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county tax for high school equalization and revenue for the high school BASE funding program for the district must be determined in accordance with 20-9-333; **and**

(c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program amounts for elementary school programs to the BASE funding program amounts for high school programs.

(d) the levy authority limits under 20-9-502(3) and the corresponding state school major maintenance aid under [section 8(3)] for a K-12 school district must be calculated separately for the K-12 school district's elementary and high school programs in the same manner as those limits and aid would be calculated if the K-12 school district consisted of a separate elementary and high school district.

(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.

(5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

(6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 3. Section 20-9-236, MCA, is amended to read:

"20-9-236. (Temporary) Transfer of funds – improvements to school safety and security. (1) A school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school safety and security as follows:

(a) planning for improvements to school safety, including but not limited to the cost of services provided by architects, engineers, and other consultants;

(b) installing or updating locking mechanisms and ingress and egress systems at public school access points, including but not limited to systems for exterior egress doors and interior passageways and rooms, using contemporary technologies;

(c) installing or updating bullet-resistant windows and barriers; and

(d) installing or updating emergency response systems using contemporary technologies.

(2) Any transfers made pursuant to subsection (1) are not considered expenditures to be applied against budget authority. Any revenue transfers that are not encumbered for expenditures in compliance with subsection (1) **by June 30, 2019, within 2 full school fiscal years after the funds are transferred** must be transferred back to the originating fund from which the revenue was transferred.

(3) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the transferred funds. ~~(Terminates June 30, 2019--sec. 3, Ch. 323, L. 2015.)~~

Section 4. Section 20-9-343, MCA, is amended to read:

“20-9-343. Definition of and revenue for state equalization aid.

(1) As used in this title, the term “state equalization aid” means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, and state ~~reimbursement for school facilities~~ *debt service assistance*; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state ~~reimbursement for school facilities~~ *debt service assistance*, and negotiated payments authorized under 20-7-420(3).

(3) The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) subject to 20-9-516(2)(a), interest and income money described in 20-9-341 and 20-9-342; and

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.”

Section 5. Section 20-9-367, MCA, is amended to read:

“20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement debt service assistance for school facilities.

(1) If the district guaranteed tax base ratio of ~~any~~ *an* elementary or high school district is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement, and up to 40% of the special education allowable cost payment budgeted within the general fund budget.

(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or statewide mill value per high school ANB, the district may receive *debt service assistance in the form of a state advance or reimbursement for school facilities in support of the debt service fund.*”

Section 6. Section 20-9-502, MCA, is amended to read:

“20-9-502. Purpose and authorization of building reserve fund by election -- levy for school transition costs. (1) The trustees of any district; ~~with the approval of the qualified electors of the district,~~ may establish a building reserve *fund to budget for and expend funds for any of the purposes set forth in this section. Appropriate subfunds must be created to ensure*

separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

(2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings; or for the purpose of purchasing land needed for school purposes in the district; ~~or for the purpose of funding school transition costs as provided in subsections (5) and (6).~~ In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(a)(i) the purpose or purposes for which the new or addition to the building reserve will be used;

(b)(ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c)(iii) the total amount of money that will be raised during the duration of time specified in ~~subsection (1)(b)~~ for the levy; and

(d)(iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(2)(b) Except as provided in subsections ~~(5)(b)~~ (4)(b) and (6), a building reserve tax authorization may not be for more than 20 years.

(3)(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(4)(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). Except as provided in subsection (3)(g), the trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified school major maintenance projects meeting the requirements of [section 8(2)]. The 10-mill limit under this section must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] may not exceed the district's school major maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and the product of \$100 multiplied by the district's budgeted ANB for the prior fiscal year. To authorize and impose a levy under this subsection (3), the trustees shall:

(i) following public notice requirements pursuant to [section 1], adopt no later than June 1 for fiscal year 2017 only and no later than March 31 for fiscal years 2018 and subsequent fiscal years, a resolution:

(A) identifying the anticipated school major maintenance projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] will be used; and

(B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to [section 8(3)], and the resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by the department of revenue under 15-10-202; and

(ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.

(b) Proceeds from the levy may be expended only for the purposes under [section 8(2)], and the expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

(c) Whenever the trustees of a district impose a levy pursuant to this section during the current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] in the district's building reserve fund budget. Any expenditures of the funds must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(d) When a tax levy pursuant to this section is included as a revenue item on the final building reserve fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142.

(e) A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)].

(f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to [section 8] consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(g) A district awarded a quality schools facility grant pursuant to Title 90, chapter 6, part 8, during the biennium beginning July 1, 2017, may not impose the levy under this subsection (3) during the biennium beginning July 1, 2017.

~~(5)(4)~~ (a) ~~The trustees may submit a proposition to the qualified electors of the district for a levy. A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:~~

(i) open a new school under the provisions of Title 20, chapter 6;

(ii) close a school;

(iii) replace a school building; or

(iv) consolidate with or annex another district under the provisions of Title 20, chapter 6.

(b) Except as provided in subsections ~~(5)(c)~~ (4)(c) and (6), the total amount the trustees may submit to the electorate for transition costs may not exceed

the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. Except as provided in subsection (6), the duration of the levy for transition costs may not exceed 6 years.

(c) If the levy for transition costs is for consolidation or annexation:

(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

(ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.

(5) *A subfund in the building reserve fund must be created for the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236.*

(6) The trustees of a K-12 district shall *create a subfund and* impose a levy for transition costs to fund the payment required by 20-6-326(6)(b) when a proposition to create the K-12 district and to assess the transition levy has been approved pursuant to 20-6-326(2). The levy is limited to the amount required by 20-6-326(6)(b) for a period not to exceed 3 years."

Section 7. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide ~~money to schools for,~~ *contingent on appropriation from the legislature, funding for the following in priority order:*

(a) *school technology purposes as provided in 20-9-534; and*

~~(a) major deferred maintenance;~~

~~(b) improving energy efficiency in school facilities;~~

~~(c) critical infrastructure in school districts;~~

~~(d) emergency facility needs;~~

~~(e) technological improvements; and~~

~~(f)(b) state reimbursement for school facilities~~ *debt service assistance* as provided in 20-9-371.

(2) There must be deposited in the account:

(a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) *If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346(2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in [section 8] will result in a proration reduction in school major maintenance aid pursuant to [section 8(5)] for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction."*

Section 8. School major maintenance aid account – formula. (1) There is a school major maintenance aid account in the state special revenue fund provided for in 17-2-102.

(2) The purpose of the account is to provide, contingent on appropriation from the legislature, funding for school major maintenance aid as provided in

subsection (3) for school facility projects that support a basic system of free quality public elementary and secondary schools under 20-9-309 and that involve:

(a) first, making any repairs categorized as “safety”, “damage/wear out”, or “codes and standards” in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility condition and needs assessment final report prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and

(b) after addressing the repairs in subsection (2)(a), any of the following:

(i) updating the facility condition inventory as recommended in the final report referenced in subsection (2)(a) with the scope and methods of the review to be determined by the trustees, employing experts as the trustees determine necessary. The first update must be completed by July 1, 2019, and each district shall certify the completion to the office of public instruction no later than October 31, 2019. Subsequent updates must be certified to the office of public instruction no less than once every 5 years following the first certification.

(ii) undertaking projects designed to produce operational efficiencies such as utility savings, reduced future maintenance costs, improved utilization of staff, and enhanced learning environments for students, including but not limited to projects addressing:

(A) roofing systems;

(B) heating, air conditioning, and ventilation systems;

(C) energy-efficient window and door systems and insulation;

(D) plumbing systems;

(E) electrical systems and lighting systems;

(F) information technology infrastructure, including internet connectivity both within and to the school facility; and

(G) other critical repairs to an existing school facility or facilities.

(3) (a) In any year in which the legislature has appropriated funds for distribution from the school major maintenance aid account, the superintendent of public instruction shall administer the distribution of school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section, aid must be annually distributed no later than the last working day of May to a school district imposing a levy pursuant to 20-9-502(3) in the current school fiscal year, with the amount of state support per dollar of local effort of the applicable elementary and high school program of each district determined as follows:

(i) using the taxable valuation most recently certified by the department of revenue under 15-10-202:

(A) divide the total statewide taxable valuation by the statewide total of school major maintenance amounts and multiply the result by 171%;

(B) multiply the result determined under subsection (3)(a)(i)(A) by the district’s school major maintenance amount;

(C) subtract the district’s taxable valuation from the amount determined under subsection (3)(a)(i)(B); and

(D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;

(ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district’s mill value; and

(iii) multiply the result determined under subsection (3)(a)(ii) by the district’s school major maintenance amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district’s school major maintenance amount.

(b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of the district's general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iii) rounded to the nearest cent is the amount of school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(c) For a district with an adopted general fund budget in the prior year less than 97% of the district's maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iii) by the ratio of the district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(4) Using the taxable valuation most recently certified by the department of revenue under 15-10-202, the superintendent shall provide school districts with a preliminary estimated amount of state school major maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final amount for the current school year no later than July 31.

(5) If the appropriation from or the available funds in the school major maintenance aid account in any school fiscal year is less than the amount for which school districts would otherwise qualify, the superintendent of public instruction shall proportionally prorate the aid distributed to ensure that the distributions do not exceed the appropriated or available funds.

(6) If in any fiscal year the amount of revenue in the school major maintenance aid account is sufficient to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in that same fiscal year the amount of revenue available in the school facility and technology account established in 20-9-516 will result in a proration reduction in debt service assistance pursuant to 20-9-346(2)(b) for that fiscal year, the state treasurer shall transfer any excess funds in the school major maintenance aid account to the school facility and technology account, not to exceed the amount required to avoid a proration reduction.

(7) For the purposes of this section, the following definitions apply:

(a) "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or transferred by trustees to the subfund pursuant to 20-9-502(3).

(b) "School major maintenance amount" means the sum of \$15,000 and the product of \$100 multiplied by the district's budgeted ANB for the prior fiscal year.

Section 9. Repealer. The following sections of the Montana Code Annotated are repealed:

90-6-801. Short title.

90-6-802. Purpose.

90-6-803. Definitions.

90-6-809. Quality schools facility grant program -- legislature to authorize grants -- types of grants available.

90-6-810. Procedure for approval of projects -- role of department and governor -- approval by legislature.

90-6-811. Priorities for projects -- application of criteria -- consideration of project attributes -- adjustments for educationally relevant factors.

90-6-819. Department to adopt rules.

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

90-6-812. Conditions for grants.

90-6-818. Disbursement of funds -- department discretion when actual expenses are less than projected expenses.

Section 11. Repealer. Section 12, Chapter 364, Laws of 2013, and section 3, Chapter 323, Laws of 2015, are repealed.

Section 12. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 1, and the provisions of Title 20, chapter 9, part 1, apply to [section 1].

(2) [Section 8] is intended to be codified as an integral part of Title 20, chapter 9, part 5, and the provisions of Title 20, chapter 9, part 5, apply to [section 8].

Section 13. Coordination instruction. If both Senate Bill No. 139 and [this act] are passed and approved and if both contain a section amending 20-9-502, then the sections amending 20-9-502 are void and 20-9-502 must be amended as follows:

"20-9-502. Purpose and authorization of building reserve fund by election -- levy for school transition costs. (1) The trustees of any district; ~~with the approval of the qualified electors of the district,~~ may establish a building reserve ~~fund to budget for and expend funds for any of the purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.~~

(2) (a) ~~A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings; or for the purpose of purchasing land needed for school purposes in the district; or for the purpose of funding school transition costs as provided in subsections (5) and (6).~~ In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(a)(i) the purpose or purposes for which the new or addition to the building reserve will be used;

(b)(ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c)(iii) the total amount of money that will be raised during the duration of time specified in ~~subsection (1)(b) for the levy;~~ and

(d)(iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(2)(b) Except as provided in ~~subsections (5)(b) and (6) subsection (4)(b),~~ a building reserve tax authorization may not be for more than 20 years.

(3)(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(4)(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve

fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) *A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). Except as provided in subsection (3)(g), the trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified school major maintenance projects meeting the requirements of [section 8(2)]. The 10-mill limit under this section must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] may not exceed the district's school major maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and the product of \$100 multiplied by the district's budgeted ANB for the prior fiscal year. To authorize and impose a levy under this subsection (3), the trustees shall:*

(i) *following public notice requirements pursuant to [section 1], adopt no later than June 1 for fiscal year 2017 only and no later than March 31 for fiscal years 2018 and subsequent fiscal years, a resolution:*

(A) *identifying the anticipated school major maintenance projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] will be used; and*

(B) *estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to [section 8(3)], and the resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by the department of revenue under 15-10-202; and*

(ii) *include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.*

(b) *Proceeds from the levy may be expended only for the purposes under [section 8(2)], and the expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.*

(c) *Whenever the trustees of a district impose a levy pursuant to this section during the current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)] in the district's building reserve fund budget. Any expenditures of the funds must be made in accordance with the financial administration provisions of this title for a budgeted fund.*

(d) *When a tax levy pursuant to this section is included as a revenue item on the final building reserve fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142.*

(e) *A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to [section 8(3)].*

(f) *If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully*

available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to [section 8] consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(g) A district awarded a quality schools facility grant pursuant to Title 90, chapter 6, part 8, during the biennium beginning July 1, 2017, may not impose the levy under this subsection (3) during the biennium beginning July 1, 2017.

~~(5)(4) (a) The trustees may submit a proposition to the qualified electors of the district for a levy. A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:~~

~~(i) open a new school under the provisions of Title 20, chapter 6;~~

~~(ii) close a school;~~

~~(iii) replace a school building; or~~

~~(iv) consolidate with or annex another district under the provisions of Title 20, chapter 6; or~~

~~(v) receive approval from voters to expand an elementary district into a K-12 district pursuant to 20-6-326.~~

~~(b) Except as provided in subsections (5)(c) and (6) subsection (4)(c), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. Except as provided in subsection (6), the The duration of the levy for transition costs may not exceed 6 years.~~

~~(c) If the levy for transition costs is for consolidation or annexation:~~

~~(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and~~

~~(ii) the proposition must be submitted to the qualified electors in the combined district.~~

~~(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.~~

~~(5) A subfund in the building reserve fund must be created for the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236.~~

~~(6) The trustees of a K-12 district shall impose a levy for transition costs to fund the payment required by 20-6-326(6)(b) when a proposition to create the K-12 district and to assess the transition levy has been approved pursuant to 20-6-326(2). The levy is limited to the amount required by 20-6-326(6)(b) for a period not to exceed 3 years."~~

Section 14. Coordination instruction. If both House Bill No. 134 and [this act] are passed and approved, then House Bill No. 134 is void.

Section 15. Effective dates -- coordination -- retroactive applicability. (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval and applies to school district budgets beginning on or after July 1, 2017.

(2) The authority and requirement for notice under [sections 1 and 6(3)] applies retroactively, within the meaning of 1-2-109, to levies noticed on or after January 1, 2017.

(3) (a) Except as provided in subsection (3)(b), [sections 9 and 10] are effective July 1, 2017.

(b) If House Bill No. 645 or Senate Bill No. 367 is passed and approved and provides grants to schools for facilities, then [section 10] is effective July 1, 2019.

Approved May 19, 2017

CHAPTER NO. 405

[SB 309]

AN ACT GENERALLY REVISING ECONOMIC DEVELOPMENT LAWS RELATED TO INDIAN COUNTRY ECONOMIC DEVELOPMENT, THE TOURISM ADVISORY COUNCIL, AND STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; ADDING ANOTHER INDIAN MEMBER TO THE TOURISM ADVISORY COUNCIL; DEFINING ADDITIONAL DUTIES AND ACCOUNTS OF THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; AMENDING SECTIONS 2-15-1816, 15-65-101, 15-65-121, 90-1-132, AND 90-1-135, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1816, MCA, is amended to read:

"2-15-1816. Tourism advisory council. (1) There is created a tourism advisory council.

(2) The council is composed of not less than 12 members appointed by the governor from Montana's private sector travel industry and includes at least one member from Indian tribal governments *and one tribal member from the private sector*, with representation from each tourism region initially established by executive order of the governor and as may be modified by the council under subsection (5).

(3) Members of the council shall serve staggered 3-year terms, subject to replacement at the discretion of the governor.

(4) The council shall:

(a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion ~~and to~~, nonprofit convention and visitors bureaus, *and the state-tribal economic development commission established in 90-1-131 on behalf of an Indian tourism region* in accordance with Title 15, chapter 65, part 1, and this section;

(b) advise the department of commerce relative to tourism promotion;

(c) advise the governor on significant matters relative to Montana's travel industry;

(d) prescribe allowable administrative expenses for which accommodation tax proceeds may be used by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;

(e) direct the university system regarding Montana travel research;

(f) approve all travel research programs prior to their being undertaken;

(g) encourage *the state-tribal economic development commission* and regional nonprofit tourism corporations to promote tourist activities on Indian reservations in their regions;

(h) encourage regional nonprofit tourism corporations and nonprofit convention and visitors bureaus receiving money under subsection (4)(a) to promote public and nonprofit history museums in their regions; and

(i) urge the department of transportation to include museums recognized by the museums association of Montana when it updates and publishes the state maps.

(5) The council may modify the tourism regions established by executive order of the governor.

(6) The department of commerce shall adopt rules to implement and administer Title 15, chapter 65, part 1, and this section."

Section 2. Section 15-65-101, MCA, is amended to read:

"15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) (a) "Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) "Council" means the tourism advisory council established in 2-15-1816.

(4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(5) *"Indian tourism region" includes the area recognized as being historically associated with the seven federally recognized reservations in Montana and the Little Shell Chippewa tribe.*

(5)(6) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort area district in which the bureau is located.

(6)(7) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

(7)(8) "Resort area" means an area established pursuant to 7-6-1508.

(8)(9) "Resort area district" has the meaning provided in 7-6-1501."

Section 3. Section 15-65-121, MCA, is amended to read:

"15-65-121. Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (2)(a) through (2)(f) (2)(g) of this section, the

department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds, or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) ~~64.9%~~ 64.4% to be used directly by the department of commerce;

(e) (i) except as provided in subsection (2)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

(f) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region; and

~~(f)~~(g) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to the Montana historical interpretation state special revenue account pursuant to subsection ~~(2)(f)~~ (2)(g) are subject to appropriation by the legislature.”

Section 4. Section 90-1-132, MCA, is amended to read:

“90-1-132. Commission purposes – duties and responsibilities. (1) The general purposes of the state-tribal economic development commission include:

(a) assisting, promoting, encouraging, developing, and advancing economic prosperity and employment on Indian reservations in Montana by fostering the expansion of business, manufacturing, tourism, agriculture, and community development programs;

(b) cooperating and acting in conjunction with other organizations, public and private, to benefit tribal communities;

(c) recruiting business enterprises to locate on or invest in enterprises on the reservations; and

(d) identifying, obtaining, and coordinating federal, state, and private sector gifts, grants, loans, and donations to further economic development on the Indian reservations in Montana.

(2) The state-tribal economic development commission shall:

(a) *in conjunction with the tourism advisory council provided for in 2-15-1816, oversee use of proceeds to expand tourism activities and visitation in the Indian tourism region;*

~~(a)~~(b) determine, with assistance from the tribal business center coordinator and the federal grants coordinator in the office of the state director of Indian affairs, the availability of federal, state, and private sector gifts, grants, loans, and donations to tribal governments, Indian business enterprises, and communities located on Indian reservations in Montana;

~~(b)~~(c) apply for grants listed in the Catalog of Federal Domestic Assistance for which the commission is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

~~(c)~~(d) in cooperation with a tribal government, and when allowed by federal law and regulation, assist the tribe in applying for grants listed in the Catalog of Federal Domestic Assistance for which an appropriate tribal entity is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

~~(d)~~(e) evaluate the apportionment of current spending of federal funds by state agencies in areas including but not limited to economic development, housing, community infrastructure, business finance, tourism promotion, transportation, and agriculture;

~~(e)~~(f) conduct or commission and oversee a comprehensive assessment of the economic development needs and priorities of each Indian reservation in the state;

~~(f)~~(g) notify tribal governments, the governor, the state director of Indian affairs, and the directors of the departments of commerce, agriculture, and transportation, of the availability of specific federal, state, or private sector funding programs or opportunities that would directly benefit Indian communities in Montana;

~~(g)~~(h) assist tribal governments and other tribal entities that are eligible for federal assistance programs as provided in the most recent published

edition in the Catalog of Federal Domestic Assistance in applying for funds that would contribute to the respective tribes' economic development;

~~(h)~~(i) work cooperatively with tribal government officials, the state director of Indian affairs, and other appropriate state officials to help foster state-tribal cooperative agreements pursuant to Title 18, chapter 11, part 1, that will:

(i) enhance economic development on the Indian reservations in Montana; and

(ii) help the department of commerce to fully implement and comply with the provisions of 90-1-105; and

~~(j)~~ provide to the governor, the legislative council, *the state-tribal relations committee*, the legislative auditor, and to each of the presiding officers of the tribal governments in Montana a biennial report that summarizes the activities of the commission."

Section 5. Section 90-1-135, MCA, is amended to read:

"90-1-135. Special revenue accounts. (1) There is ~~an~~ *a state special revenue* account in the state treasury for the receipt of state and private funds and ~~an~~ *a federal special revenue* account in the state treasury for the receipt of federal funds for expenditure by the state-tribal economic development commission established in 90-1-131.

(2) *Money in the state special revenue account from proceeds distributed under 15-65-121(2)(f) is to be used for activities for the Indian tourism region, defined in 15-65-101.*

~~(2)~~(3) *Money* Except as provided in subsection (2), money in the accounts established in subsection (1) must be used to pay:

(a) the commission's administrative costs;

(b) the salary, benefits, and administrative expenses of the tribal business center coordinator and the federal grants coordinator; and

(c) the costs of conducting or commissioning and periodically updating or otherwise modifying a comprehensive assessment of economic development needs and priorities on each of the Indian reservations in the state.

~~(3)~~(4) Money in the accounts that is not expended for the purposes identified in subsection (2) or (3) may be used for other purposes that the commission considers prudent or necessary.

~~(4)~~(5) Interest and income earned on the money in the accounts must be deposited in the accounts for the commission's use."

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Effective date. [This act] is effective July 1, 2017.

Approved May 19, 2017

CHAPTER NO. 406

[SB 310]

AN ACT REVISING LAWS RELATED TO CRIMINAL JURISDICTION ON THE FLATHEAD INDIAN RESERVATION; REQUIRING NOTIFICATION TO THE CONFEDERATED SALISH AND KOOTENAI TRIBAL GOVERNMENT; AMENDING SECTION 2-1-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-1-306, MCA, is amended to read:

“2-1-306. Withdrawal of consent to state jurisdiction. (1) No sooner than 6 months after April 24, 1993, and after consulting with local government officials concerning implementation, the Confederated Salish and Kootenai tribes may, by tribal resolution, withdraw consent to be subject to the criminal ~~misdemeanor~~ jurisdiction of the state of Montana. Within 6 months after receipt of the resolution, the governor shall issue a proclamation to that effect.

(2) The Confederated Salish and Kootenai tribes may, by separate resolution, withdraw consent to be subject to those areas of civil jurisdiction of the state of Montana that are delineated in tribal ordinance 40-A (revised and enacted May 5, 1965). The withdrawal is limited to those delineated areas of civil jurisdiction agreed upon in writing by the governor after consultation with the attorney general and officials of affected local governments. The tribes shall initiate this process by sending a certified letter to the governor. After consultation and execution of a written agreement between the governor and the tribes, the agreed-upon civil areas must be incorporated into a tribal resolution to be enacted by the tribes. Within 6 months after receipt of the tribal resolution, the governor shall issue a proclamation to that effect that reflects the terms of the written agreement.

(3) Subsections (1) and (2) do not alter the existing jurisdiction or authority of the Confederated Salish and Kootenai tribes or the state of Montana, except as expressly provided for in subsections (1) and (2).”

Section 2. Notification to tribal government. The secretary of state shall send a copy of [this act] to the Confederated Salish and Kootenai tribal government.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 19, 2017

CHAPTER NO. 407

[SB 324]

AN ACT REVISING PROPERTY TAX EXEMPTION LAWS; REQUIRING THE DEPARTMENT OF REVENUE TO NOTIFY THE COUNTY TREASURER WHEN PROPERTY WITHIN A COUNTY BECOMES TAX EXEMPT; REQUIRING CERTAIN TENANTS OF TAX-EXEMPT HOUSING TO SATISFY AGE AND INCOME GUIDELINES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. New property tax exemptions – department notification to local governments. The department shall notify the county treasurer by written or electronic means when it makes a determination that previously taxable property within a county qualifies for a property tax exemption. The department may provide additional notification to a taxing authority that requests notification from the department.

Section 2. Section 15-6-201, MCA, is amended to read:

“15-6-201. Governmental, charitable, and educational categories – exempt property. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

- (B) as provided in 15-24-1103;
- (ii) the state, counties, cities, towns, and school districts;
- (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
- (iv) municipal corporations;
- (v) public libraries;
- (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
- (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.
- (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;
- (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;
- (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;
- (e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:
 - (i) is not operated for gain or profit;
 - (ii) has an attendance policy; and
 - (iii) has a definable curriculum with systematic instruction;
- (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);
- (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
- (h) property that is:
 - (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21; or
 - (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(j) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(n) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) *subject to subsection (2)(e)*, property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term “clergy” means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(c) For the purposes of subsection (1)(i):

(i) the term “institutions of purely public charity” includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term “public museums, art galleries, zoos, and observatories” means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art

gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(e) *For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection (1)(n)(ii), the terms “retired” and “aged” mean an individual who satisfies the age and gross household income limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-202.”*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

Section 4. Applicability. [Section 2] applies to rental agreements or occupancy arrangements entered into on or after [the effective date of this act].

Approved May 19, 2017

CHAPTER NO. 408

[SB 333]

AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT; REQUIRING SEED-TO-SALE TRACKING; REQUIRING LICENSING OF DISPENSARIES AND ENDORSEMENTS FOR CHEMICAL MANUFACTURING; ESTABLISHING REQUIREMENTS FOR TESTING LABORATORIES; REVISING ALLOWABLE AMOUNTS; REQUIRING TESTING OF SAMPLES COLLECTED DURING INSPECTIONS; ELIMINATING THE REQUIREMENT FOR A PARENT TO SERVE AS A MINOR'S PROVIDER; ESTABLISHING A TAX ON PROVIDERS; ESTABLISHING A FEE FOR DISPENSARIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 41-5-216, 50-46-302, 50-46-303, 50-46-307, 50-46-308, 50-46-311, 50-46-312, 50-46-319, 50-46-320, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46-343, 50-46-344, 50-46-345, AND 80-1-104, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-216, MCA, is amended to read:

“41-5-216. Disposition of youth court, law enforcement, and department records – sharing and access to records. (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy

the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under

41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to 50-46-307 or a license pursuant to 50-46-308 is currently under youth court supervision."

Section 2. Section 50-46-302, MCA, is amended to read:

"50-46-302. Definitions. As used in this part, the following definitions apply:

(1) *"Canopy" means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.*

(2) *"Chemical manufacturing" means the production of marijuana concentrate.*

(3) *"Correctional facility or program" means a facility or program that is described in 53-1-202 and to which an individual may be ordered by any court of competent jurisdiction.*

(4) *"Debilitating medical condition" means:*

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder; or

~~(4)~~ any other medical condition or treatment for a medical condition approved by the legislature.

~~(3)~~(5) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(4)~~(6) "Dispensary" means a registered location premises from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

~~(5)~~(7) (a) "Employee" means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

~~(6)~~(8) "Local government" means a county, a consolidated government, or an incorporated city or town.

~~(7)~~(9) "Marijuana" has the meaning provided in 50-32-101.

(10) "*Marijuana concentrate*" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(11) "*Marijuana derivative*" means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

~~(8)~~(12) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

~~(9)~~(13) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

~~(10)~~(14) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(11)~~(15) "Paraphernalia" has the meaning provided in 45-10-101.

~~(12)~~(16) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(13)~~(17) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.

(b) The term does not include a cardholder's treating physician or referral physician.

~~(14)~~(18) "Referral physician" means an individual who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

~~(15)~~(19) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(16)~~(20) "Registered premises" means the location at which a provider or marijuana-infused products provider:

(a) has indicated that marijuana will be cultivated, *chemical manufacturing will occur*, or marijuana-infused products will be manufactured for a registered cardholder; or

(b) *has established a dispensary for sale of marijuana or marijuana-infused products to a registered cardholder.*

(17)(21) “Registry identification card” means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder .

(18)(22) (a) “Resident” means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this part if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(19)(23) “Second degree of kinship by blood or marriage” means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(20)(24) “Seedling” means a marijuana plant that has no flowers and is less than 12 12 inches in height and 12 inches in diameter.

(21)(25) “Standard of care” means, at a minimum, the following activities when undertaken by a patient’s treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient’s medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(22)(26) “Testing laboratory” means a qualified person, licensed by the department, who *meets the requirements of 50-46-311 and:*

(a) provides testing of small samples of marijuana and marijuana-infused products; and

(b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds or pesticides in a sample.

(23)(27) “Treating physician” means an individual who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the individual applying to be a registered cardholder.

(24)(28) (a) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any ~~mixtures or preparations of the dried leaves and flowers~~ *marijuana derivatives* that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(25)(29) “Written certification” means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care.”

Section 3. Section 50-46-303, MCA, is amended to read:

“50-46-303. Department responsibilities – issuance of cards and licenses – confidentiality – inspections – reports. (1) ~~(a)~~ The department shall establish and maintain a program for:

(a) the issuance of registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part;

(b) *the issuance of licenses:*

(i) *to persons who apply to operate as providers, marijuana-infused products providers, or testing laboratories and who submit applications meeting the requirements of this part; and*

(ii) *for dispensaries established by providers or marijuana-infused products providers;*

(c) *the issuance of endorsements for chemical manufacturing to a provider or a marijuana-infused products provider who applies for a chemical manufacturing endorsement and meets requirements established by the department by rule; and*

(d) *the tracking of marijuana and marijuana-infused products from either the seed or the immature plant stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold or otherwise provided to an individual who is not authorized under this part to possess the item. The tracking system must be provided to providers, marijuana-infused products providers, dispensaries, and testing laboratories at no additional cost.*

~~(b)(2) (a) Individuals who obtain registry identification cards are~~ An individual who obtains a registry identification card and does not name a provider or marijuana-infused products provider is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(b) An individual who obtains a registry identification card and names a provider or marijuana-infused products provider is authorized to possess marijuana as allowed by this part.

(c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by this part.

(d) A person who obtains a testing laboratory license or an employee of a licensee is authorized to possess, test, and transport marijuana as allowed by this part.

~~(2) The department shall establish and maintain a program for the licensure of testing laboratories and persons who are named as providers or marijuana-infused products providers by registered cardholders.~~

(3) The department shall conduct criminal history background checks as required by 50-46-307 and 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

(4) (a) Registry identification cards and licenses issued pursuant to this part must:

(a)(i) be laminated and produced on a material capable of lasting for the duration of the time period for which the card or license is valid;

(b)(ii) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical manufacturing;

(c)(iv) state the date of issuance and the expiration date of the registry identification card or license;

(d)(v) contain a unique identification number; and

(e)(vi) contain other information that the department may specify by rule.

(b) *Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry identification cards issued pursuant to this part must:*

(i) *include a picture of the registered cardholder; and*

(ii) *be capable of being used to track registered cardholder purchases.*

(c) *The department may issue temporary identification cards valid for 60 days that do not meet the requirements of subsection (4)(b).*

(5) (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card, or license, or endorsement within 5 days of approving an application or renewal.

(6) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(7) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) Licenses and endorsements issued to providers, marijuana-infused products providers, and testing laboratories must be renewed annually.

(8) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change.

(b) *A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify the department of the location of the plants and seedlings or any change of location of plants or seedlings. The department shall provide the names and locations of cardholders who possess mature plants or seedlings to the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.*

(c) If a change occurs and is not reported to the department, the registry identification card is void.

(9) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Except as provided in ~~subsection~~ subsections (8)(b) and (10), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(10) The department shall provide the names and phone numbers of providers and marijuana-infused products providers and the city, town, or county where registered premises and testing laboratories are located to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of ~~50-46-332~~ public on the department's website. The department may not disclose

the physical location or address of a provider, marijuana-infused products provider, dispensary, or testing laboratory.

(11) The department may share only information about providers, marijuana-infused products providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The department of revenue and its employees are subject to the confidentiality requirements of [section 25(1)].

~~(11)~~(12) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, *the number of endorsements approved for chemical manufacturing*, the number of testing laboratories licensed, *the number of dispensaries licensed*, the number of registry identification cards and licenses revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, ~~or~~ marijuana-infused products providers, *dispensaries, or testing laboratories*.

~~(12)~~(13) The board of medical examiners shall report annually to the legislature on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203.”

Section 4. Section 50-46-307, MCA, is amended to read:

“50-46-307. (Temporary) Persons with debilitating medical conditions – requirements – minors – limitations. (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person’s name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person’s use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person’s debilitating medical condition;
- (g) the name of the person’s treating physician or referral physician and the street address and telephone number of the physician’s office;
- (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person’s own use;
- (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
- (j) the written certification and accompanying statements from the person’s treating physician or referral physician as required pursuant to 50-46-310.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor’s custodial parent or legal guardian with responsibility for health care decisions:

- (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor’s legal guardian with responsibility for health care decisions; and

- (b) signs and submits a written statement that:
 - (i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and
 - (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
 - (A) consents to the use of marijuana by the minor;
 - ~~(B) agrees to serve as the minor's marijuana-infused products provider;~~
 - ~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;
 - ~~(D)~~(C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;
 - (c) *if the parent or guardian is serving as the minor's provider*, submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.
 - (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.
 - (3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.
 - (4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.
 - (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.
 - (6) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:
 - (a) at a property that is owned by the cardholder; or
 - (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.
 - (7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.
- 50-46-307. (Effective June 30, 2017) Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:
- (a) an application on a form prescribed by the department;
 - (b) an application fee or a renewal fee;
 - (c) the individual's name, street address, and date of birth;
 - (d) proof of Montana residency;

(e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;

(f) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana-infused products that the individual cultivates, manufactures, or obtains for the individual's debilitating medical condition;

(g) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's own use;

(i) the name, date of birth, and street address of the person the individual has selected as a provider or marijuana-infused products provider, if any; and

(j) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 50-46-310.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

~~(B) agrees to serve as the minor's marijuana-infused products provider;~~

~~(C)~~(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

~~(D)~~(C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) *if the parent or guardian will be serving as the minor's provider*, submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a license as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana cultivated for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.

(4) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as allowed under 50-46-319 only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

Section 5. Section 50-46-308, MCA, is amended to read:

~~"50-46-308. (Temporary) Provider types--requirements--limitations --activities.~~ (1) ~~The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:~~

~~(a) the person's name, date of birth, and street address on a form prescribed by the department;~~

~~(b) proof that the person is a Montana resident;~~

~~(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;~~

~~(d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;~~

~~(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;~~

~~(f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.~~

~~(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.~~

~~(2) The department may not register a person under this section if the person:~~

~~(a) has a felony conviction or a conviction for a drug offense;~~

~~(b) is in the custody of or under the supervision of the department of corrections or a youth court;~~

~~(c) has been convicted of a violation under 50-46-331;~~

~~(d) has failed to:~~

~~(i) pay any taxes, interest, penalties, or judgments due to a government agency;~~

~~(ii) stay out of default on a government-issued student loan;~~

~~(iii) pay child support; or~~

~~(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or~~

~~(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under 50-46-307.~~

~~(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.~~

~~(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.~~

~~(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.~~

~~(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.~~

~~(5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~

~~(6) A provider or marijuana-infused products provider may not:~~

~~(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;~~

~~(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or~~

~~(c) use marijuana unless the person is also a registered cardholder.~~

~~(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:~~

~~(i) a property that is owned by the provider or marijuana-infused products provider;~~

~~(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or~~

~~(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.~~

~~(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.~~

50-46-308. (Effective June 30, 2017) Provider types – requirements – limitations – activities. (1) (a) Subject to subsections (1)(b) and (2), the department shall issue a license to or renew a license for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the person is a Montana resident;

(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(iv) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(v) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for a registered cardholder;

(vi) a statement acknowledging that the person will cultivate marijuana and manufacture marijuana-infused products for the registered cardholder at only one location as provided in subsection ~~(5)~~ (6). The location must be identified by street address.

(vii) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the license.

(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.

(2) The department may not license a person under this section if the person or an individual with a financial interest in the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 50-46-331;

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the individual's application for a card issued under 50-46-307;

(f) (i) *before July 1, 2020, has resided in Montana for fewer than 3 years except if the provider or marijuana-infused products provider was named by a registered cardholder by June 30, 2017; and*

(ii) *on or after July 1, 2020, has resided in Montana for less than 1 year 1 year; or*

(g) is under 18 years of age.

(3) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

(4) A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder.

(5) *Except as provided in [section 8(1)(b)], a provider or marijuana-infused products provider shall:*

(a) *prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories pursuant to 50-46-311, [section 8], and related administrative rules;*

(b) *allow the department to collect samples of marijuana or marijuana-infused products during inspections of registered premises for testing as provided by the department by rule;*

(c) *participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 50-46-303; and*

(d) *obtain the license provided for in 80-7-106 from the department of agriculture if the provider or marijuana-infused products provider sells live plants. A provider or marijuana-infused products provider required to obtain a nursery license is subject to the inspection requirements of 80-7-108. The department of agriculture and its employees are subject to the confidentiality requirements of 50-46-332.*

(5)(6) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.

(b) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products may be shared with or rented or leased to another provider or marijuana-infused products provider or a registered cardholder.

(6)(7) A licensed provider or marijuana-infused products provider may:

(a) ~~operate dispensaries in accordance with rules adopted by the department;~~

(i) *operate dispensaries; and*

(ii) *engage in chemical manufacturing;*

(b) employ employees to cultivate marijuana, manufacture *marijuana concentrates* and marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and

(c) provide a small amount of marijuana or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory *or the department of agriculture."*

Section 6. Section 50-46-311, MCA, is amended to read:

"50-46-311. (Effective June 30, 2017) Testing laboratories. (1) (a) The department shall license testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for ~~toxins pesticides, solvents, water levels, and~~ mold, and other contaminants. A testing laboratory may transport samples to be tested.

(b) *The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104 may be used for the testing provided for in this section.*

(2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.

(3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have ~~the following minimum qualifications:~~

(a) ~~a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or~~

(b) ~~a master's the following minimum qualifications:~~

(a) *a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or*

(b) *a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience and a minimum of 4 years of postdegree laboratory experience.*

(4) *All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. A laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.*

(5) *To qualify for licensure, a testing laboratory shall demonstrate that:*

(a) *staff members are proficient in operation of the laboratory equipment;*
(b) *the laboratory maintains the equipment and instrumentation required by rule;*

(c) *the laboratory meets insurance and bonding requirements established by rule; and*

(d) *the laboratory has passed a relevant proficiency program. The department shall establish by rule the proficiency programs considered relevant for the purposes of this section.*

(6) *Except as provided in [section 8(1)(b)], a testing laboratory shall conduct tests of:*

(a) *samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by providers and marijuana-infused products providers pursuant to [section 8] and related administrative rules prior to sale of the marijuana or marijuana-infused products;*

(b) *samples of marijuana or marijuana-infused products collected by the department during inspections of registered premises; and*

(c) *samples submitted by registered cardholders."*

Section 7. Section 50-46-312, MCA, is amended to read:

"50-46-312. (Effective June 30, 2017) License as privilege – criteria.

(1) A provider, *marijuana-infused products provider, dispensary, or testing laboratory license or an endorsement for chemical manufacturing* is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) ~~(a)~~ The department may deny a license if the applicant's proposed registered premises:

~~(i)(a) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department; or~~

~~(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.~~

~~(iii) is not approved by local building, health, or fire officials; or~~

~~(iv)(b) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.~~

(4) (a) *The department may deny a license or endorsement if the applicant's proposed registered premises or testing laboratory:*

(i) is not approved by local building, health, or fire officials; or

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(b) *The department may not approve a license for a provider, marijuana-infused products provider, or dispensary if a local government has adopted an ordinance or resolution prohibiting the operation of dispensaries or storefront businesses as allowed under 50-46-328.*

(b)(c) For the purposes of this subsection (3) (4), “school” and “postsecondary school” have the meanings provided in 20-5-402.”

Section 8. Testing of marijuana and marijuana-infused products.

(1) (a) Except as provided in subsection (1)(b), a provider or marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a testing laboratory or the department of agriculture and met the requirements of this section.

(b) A provider or marijuana-infused products provider who has been named as a provider by 10 or fewer registered cardholders is exempt from the testing requirements of this section until April 30, 2020.

(2) A provider or marijuana-infused products provider shall submit material that has been collected in accordance with a sampling protocol established by the department by rule. The protocol must address the division of marijuana and marijuana-infused products into lot sizes for testing. Each lot must be tested in the following categories:

- (a) flower;
- (b) concentrate; and
- (c) marijuana-infused product.

(3) The department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

- (a) the potency of the cannabinoid present; and
- (b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each lot to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The department shall establish by rule the acceptable levels of pesticides, residual solvents, mold, foreign matter, debris, insects, and other contaminants that marijuana-infused products may contain.

(6) The laboratory shall:

- (a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 50-46-303.

(7) A provider or marijuana-infused products provider may request that material that has failed to pass the required tests be retested. The department shall adopt rules that provide for retesting parameters and requirements.

(8) Marijuana or a marijuana-infused product must include a label indicating whether the marijuana or marijuana-infused product has been tested.

Section 9. Section 50-46-319, MCA, is amended to read:

“50-46-319. (Temporary) Legal protections – allowable amounts.

(1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder’s provider.

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card or license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a registry identification card *or license* does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card *or license* or otherwise subject the individual or property of the individual possessing or applying for the card *or license* to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card *or license* prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card *or license* after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

(i) is in possession of a valid registry identification card *or license*; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

50-46-319. (Effective June 30, 2017) Legal protections -- allowable amounts. (1) (a) A registered cardholder *who has named a provider* may possess up to ~~4 mature plants, 12 seedlings, and~~ 1 ounce of usable marijuana.

(b) (i) *A registered cardholder who has not named a provider may possess up to 4 mature plants, 4 seedlings, and the amount of usable marijuana allowed by the department by rule.*

(ii) *If two or more registered cardholders share a residence and have not named providers, the cardholders may have a maximum of 8 mature plants, 8 seedlings, and the amount of usable marijuana allowed by the department by rule. The limits in this subsection (1)(b)(ii) apply regardless of the location of the plants and seedlings.*

(iii) *A registered cardholder who possesses mature plants or seedlings shall notify the department of the location of the plants and seedlings pursuant to 50-46-303(8)(b).*

~~(b)(c) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider have the canopy allowed by the department for the provider or marijuana-infused products provider. The canopy allotment is a cumulative total for all of the provider's or marijuana-infused products provider's registered premises and may not be interpreted as an allotment for each premises.~~

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card or license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused products as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a license or registry identification card does not alone constitute probable cause to search the person or individual or the property of the person or individual or otherwise subject the person or individual or property of the person or individual possessing or applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a *license* or registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a *license* or registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

- (i) is in possession of a valid registry identification card *or license*; and
- (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

Section 10. Section 50-46-320, MCA, is amended to read:

"50-46-320. (Temporary) Limitations of act. (1) This part does not permit:

- (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

- (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

- (i) in a health care facility as defined in 50-5-101;
 - (ii) in a school or a postsecondary school as defined in 20-5-402;
 - (iii) on or in any property owned by a school district or a postsecondary school;
 - (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
 - (v) in a school bus or other form of public transportation;
 - (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
 - (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
 - (viii) at a public park, public beach, public recreation center, or youth center;
 - (ix) in or on the property of any church, synagogue, or other place of worship;
 - (x) in plain view of or in a place open to the general public; or
 - (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

- (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

- (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

- (4) Nothing in this part may be construed to require:

- (a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

- (b) an employer to accommodate the use of marijuana by a registered cardholder;

- (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

- (d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products provider, *dispensary, or testing laboratory* to cultivate, ~~or~~ manufacture, *dispense, sell, or test* marijuana ~~or marijuana-infused products~~ or to allow a registered cardholder to use marijuana.

- (5) Nothing in this part may be construed to:

- (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

- (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this part may be construed to allow a provider, ~~or marijuana-infused products provider, or employee of a licensee~~ to use marijuana or to prevent criminal prosecution of a provider, ~~or marijuana-infused products provider, or employee of a licensee~~ who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this section must be for the period of suspension or revocation set forth:

- (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or
- (ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

50-46-320. (Effective June 30, 2017) Limitations of act. (1) This part does not permit:

(a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

- (i) in a health care facility as defined in 50-5-101;
- (ii) in a school or a postsecondary school as defined in 20-5-402;
- (iii) on or in any property owned by a school district or a postsecondary school;
- (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
- (v) in a school bus or other form of public transportation;
- (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
- (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- (viii) at a public park, public beach, public recreation center, or youth center;
- (ix) in or on the property of any church, synagogue, or other place of worship;
- (x) in plain view of or in a place open to the general public; or
- (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana or manufacture *marijuana concentrates* or marijuana-infused products for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in this part may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse an individual for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, ~~or~~ marijuana-infused products provider, *dispensary, or testing laboratory* to cultivate, ~~or~~ manufacture, *dispense, sell, or test* marijuana, *marijuana concentrates, or marijuana-infused products* or to allow a registered cardholder to use marijuana.

(5) Nothing in this part may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this part may be construed to allow a provider, ~~or~~ marijuana-infused products provider, *or employee of a licensee* to use marijuana or to prevent criminal prosecution of a provider, ~~or~~ marijuana-infused products provider, *or employee of a licensee* who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If an individual's registry identification card or license is subject to renewal during the revocation period, the individual may not renew the card until the full revocation period has elapsed. The card or license may be renewed only if the individual submits all materials required for renewal.

(8) *A provider or marijuana-infused products provider who violates [section 20] or [section 21] is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance with [section 20] or [section 21]."*

Section 11. Section 50-46-327, MCA, is amended to read:

"50-46-327. (Temporary) Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions.

(1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where marijuana to be used for a debilitating medical condition is cultivated or manufactured or where marijuana-infused products are made~~ *registered premises or a testing laboratory*.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition.

50-46-327. (Effective June 30, 2017) Prohibitions on physician affiliation with providers and marijuana-infused products providers – sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a ~~location where marijuana to be used for a debilitating medical condition is cultivated or where marijuana-infused products are produced~~ *registered premises or a testing laboratory*.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the individual the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition."

Section 12. Section 50-46-328, MCA, is amended to read:

“50-46-328. Local government authority to regulate. (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government’s jurisdictional area. The regulations may include but are not limited to inspections of ~~locations where marijuana is cultivated or manufactured~~ *registered premises and testing laboratories* in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating *dispensaries or as storefront businesses.*”

Section 13. Section 50-46-329, MCA, is amended to read:

“50-46-329. (Temporary) Inspection procedures. (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

50-46-329. (Effective June 30, 2017) Inspection procedures. (1) The department ~~may shall~~ conduct unannounced inspections of registered premises, ~~dispensaries~~, and testing laboratories. *The department shall report biennially to the children, families, health, and human services interim committee concerning the results of unannounced inspections.*

(2) (a) The department shall inspect annually each ~~dispensary~~, registered premises, and testing laboratory.

(b) *The department shall collect samples during the inspection of registered premises and submit them to a testing laboratory for testing as provided by the department by rule.*

(3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

(4) (a) A registered premises ~~or dispensary~~, including any places of storage, where marijuana is cultivated, manufactured, *sold*, or stored is subject to entry

by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises ~~or dispensary~~ consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(5) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were *sold or* transferred and the quantities *sold or* transferred to each cardholder.

(6) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards.”

Section 14. Section 50-46-330, MCA, is amended to read:

“50-46-330. (Temporary) Unlawful conduct by cardholders or licensees – penalties. (1) The department shall revoke and may not reissue the registry identification card *or license* of a person who:

- (a) is convicted of a drug offense;
- (b) allows another person to be in possession of the person’s:
 - (i) registry identification card *or license*; or
 - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the person is registered *or licensed* and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

50-46-330. (Effective June 30, 2017) Unlawful conduct by cardholders or licensees – penalties. (1) The department shall revoke and may not reissue the registry identification card, *license, or endorsement* of an individual who:

- (a) is convicted of a drug offense;
- (b) allows another individual to be in possession of the individual’s:
 - (i) registry identification card *or license*; or
 - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
- (c) fails to cooperate with the department concerning an investigation or inspection if the individual is registered *or licensed* and cultivating marijuana, *engaging in chemical manufacturing*, or manufacturing marijuana-infused products.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.”

Section 15. Section 50-46-343, MCA, is amended to read:

“50-46-343. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the

department's activities ~~related to registering individuals~~ pursuant to this part, ~~including but not limited to monitoring of:~~

- ~~(a) the number of registered cardholders and licensees and of;~~
- (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana ~~pursuant to this part; and~~
- (c) *the development, implementation, and use of the seed-to-sale tracking system established in accordance with 50-46-303.*

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature."

Section 16. Section 50-46-344, MCA, is amended to read:

"50-46-344. Rulemaking authority – fees. (1) The department shall adopt rules necessary for the implementation and administration of this part. The rules must include but are not limited to:

(a) ~~the manner in which the department will consider applications for licenses and endorsements and applications~~ for registry identification cards ~~for providers and marijuana-infused products providers and~~ for individuals with debilitating medical conditions and renewal of licenses, endorsements, and registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under 50-46-307 and 50-46-308;

(d) *the security and operating requirements for dispensaries;*

(e) *the security and operating requirements for chemical manufacturing, including but not limited to requirements for:*

(i) *safety equipment;*

(ii) *extraction methods, including solvent-based and solvent-free extraction; and*

(iii) *postprocessing procedures;*

(f) *the amount of usable marijuana that a registered cardholder who has not named a provider or marijuana-infused products provider may possess;*

(g) *the canopy for which a provider or marijuana-infused products provider is licensed;*

(h) *implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by 50-46-303;*

(i) *requirements and standards for the testing and retesting of marijuana and marijuana-infused products, including testing of samples collected during the department's inspections of registered premises; and*

~~(d)~~(j) *other rules necessary to implement the purposes of this part.*

(2) *In establishing the canopy for a provider or marijuana-infused products provider, the department shall take into consideration:*

(a) *safety and security issues;*

(b) *the provision of adequate access to usable marijuana to accommodate the needs of registered cardholders; and*

(c) *economies of scale and their effect on the ability of licensees to comply with regulatory requirements and undercut illegal market prices.*

(2) ~~License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana and marijuana-infused products is required to have only one license.~~

(3) (a) *Except as provided in subsection (3)(b), license fees for providers and marijuana-infused products providers are \$1,000 for 10 or fewer registered cardholders and \$5,000 for more than 10 registered cardholders.*

(b) *The department may revise the fee provided for in subsection (3)(a) as needed to adequately fund the administration of the Montana Medical Marijuana Act and the seed-to-sale tracking system, including operating reserve funds of \$250,000. The department shall establish revised fees by rule.*

(c) *A provider of both marijuana and marijuana-infused products is required to have only one license.*

(3) ~~License fees for testing laboratories may not exceed \$1,200.~~

(4) *The department shall establish by rule the fees for dispensaries, endorsements for chemical manufacturing, and testing laboratories.*

(4)(5) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in 50-46-345.

(5)(6) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part."

Section 17. Section 50-46-345, MCA, is amended to read:

"50-46-345. (Effective June 30, 2017) Medical marijuana state special revenue account. (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) ~~Money~~ *The account consists of:*

(a) *money deposited into the account pursuant to ~~50-46-344~~(4) 50-46-344; and*

(b) the tax collected pursuant to [sections 18 through 26].

(3) *Money in the account must be used by the department for the purpose of administering the Montana Medical Marijuana Act and tracking system development."*

Section 18. Definitions. As used in [sections 18 through 26], the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Marijuana product" means marijuana as defined in 50-32-101 and marijuana-infused products as defined in 50-46-302.

(3) "Marijuana product provider" means provider or a marijuana-infused products provider as those terms are defined in 50-46-302.

(4) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

(5) "Purchaser" means a person to whom a sale of a marijuana product is made.

(6) "Retail price" means the established price for which a marijuana product provider sells a marijuana product to a purchaser before any discount or reduction.

(7) "Sale" or "sell" means any transfer of marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

Section 19. Tax on marijuana product providers. (1) (a) There is a tax equal to the percentage provided in subsection (1)(b) on a marijuana product provider's gross sales that is payable four times a year.

(b) The percentage of tax on gross sales in subsection (1)(a) is as follows:

(i) for gross sales during the calendar quarters beginning July 1, 2017, and ending June 30, 2018, the amount is 4%; and

(ii) for gross sales during the calendar quarters beginning July 1, 2018, and thereafter, the amount is 2%.

(2) A marijuana product provider shall submit a quarterly report to the department listing the total dollar amount of sales from any registered premises, as defined in 50-46-302, operated by the marijuana product provider, including dispensaries. The report must be:

- (a) made on forms prescribed by the department; and
- (b) submitted within 15 days of the end of each calendar quarter.

(3) At the time the report is filed, the marijuana product provider shall submit a payment equal to the percentage provided in subsection (1)(b) of the total dollar amount of sales.

(4) The department shall deposit the taxes paid under this section in the medical marijuana state special revenue account provided for in 50-46-345.

(5) The tax imposed by [sections 18 through 26] and related interest and penalties are a personal debt of the person required to file a return from the time that the liability arises, regardless of when the time for payment of the liability occurs.

(6) For the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under [sections 20 through 23]:

- (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state taxes provided for in [sections 20 through 23] and who fails to pay the taxes is liable to the state for the taxes and the penalty and interest due on the amounts;

- (b) each officer of the corporation, to the extent that the officer has access to the requisite records, is individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest upon a determination that the officer:

- (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

- (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by [sections 18 through 26] or pay taxes due as required by [sections 18 through 26];

- (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

- (d) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

- (e) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

- (f) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(7) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (6)(a) to establish individual liability and may consider any other available information.

(8) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the entity.

Section 20. Returns – payment – recordkeeping – authority of department. (1) Each marijuana product provider shall file a return, on a form provided by the department, and pay the tax due as provided in [section 19].

(2) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(3) (a) A person required to pay to the department the taxes imposed by [sections 18 through 26] shall keep for 5 years:

(i) all receipts issued; and

(ii) an accurate record of all sales of marijuana products, showing the name and address of each purchaser, the date of sale, and the quantity, kind, and retail price of each product sold.

(b) For the purpose of determining compliance with the provisions of [sections 18 through 26], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(i) require the attendance of a person having knowledge or information relevant to a return;

(ii) compel the production of books, papers, records, or memoranda by the person required to attend;

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(4) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

Section 21. Deficiency assessment – penalty and interest – statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) The amount of tax due under any return may be determined by the department within 5 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For purposes of this section, a return due under [sections 18 through 26] and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

Section 22. Procedure to compute tax in absence of statement – estimation of tax – failure to file – penalty and interest. (1) If the marijuana product provider fails to file any return required by [section 20] within the time required, the department may, at any time, audit the marijuana product provider or estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the marijuana product provider for the taxes, penalties, and interest due the state.

(2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail to the marijuana product provider a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The marijuana product provider may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206.

Section 23. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under [sections 18 through 26].

(b) If a tax imposed by [sections 18 through 26] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the marijuana product provider from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the marijuana product provider has the right to a review of the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the marijuana product provider if a claim is required before funds are available for offset.

Section 24. Refunds – interest – limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 18 through 26] must be filed within 5 years of the date that the return was due, without regard to any extension of time for filing.

(2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216.

(b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1.

Section 25. Information – confidentiality – agreements with another state. (1) (a) Except as provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an employee of the department or any other public official or public employee to disclose or otherwise make known information that is disclosed in a return or report required to be filed under [sections 18 through 26] or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity of a person making a return or the content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax information.

(2) (a) This section may not be construed to prohibit the department from providing information obtained under [sections 18 through 26] to:

(i) the department of justice or law enforcement to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under [sections 18 through 26]; or

(ii) the department of public health and human services to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the Montana Medical Marijuana Act.

(b) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(c) In order to implement the provisions of [sections 18 through 26], the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by [sections 18 through 26], the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of [sections 18 through 26] or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of [sections 18 through 26] or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(5) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309.

Section 26. Department to make rules. The department of revenue shall prescribe rules necessary to carry out the purposes of imposing and collecting the marijuana tax on gross sales on marijuana product providers.

Section 27. Section 80-1-104, MCA, is amended to read:

“80-1-104. Analytical laboratory services – rulemaking authority – deposit of fees. (1) The department is authorized to provide analytical laboratory services for:

(a) programs it operates under this title;

(b) other state or federal agencies;

(c) *providers and marijuana-infused products providers as those terms are defined in 50-46-302, and the department of public health and human services for the purposes of Title 50, chapter 46, part 3, as allowed by federal law; and*

~~(c)(d)~~ private parties.

(2) The department may enter into a contract or a memorandum of understanding for the space and equipment necessary for operation of the analytical laboratory.

(3) (a) The department may adopt rules establishing fees for testing services required under this title or provided to another state agency, a federal agency, or a private party.

(b) Money collected from the fees must be deposited in the appropriate related account in the state special revenue fund to the credit of the department to pay costs related to analytical laboratory services provided pursuant to this section.”

Section 28. Appropriation. (1) There is appropriated \$1.96 million from the state special revenue account provided for in 50-46-345 to the department of public health and human services for fiscal years 2018 and 2019 for the administration of the Montana Medical Marijuana Act.

(2) There is appropriated \$722,000 from the state special revenue account provided for in 50-46-

345 to the department of revenue for fiscal years 2018 and 2019 for administration of the tax provided for in [sections 18 through 26].

Section 29. Codification instruction. (1) [Section 8] is intended to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [section 8].

(2) [Sections 18 through 26] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 18 through 26].

Section 30. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 31. Effective dates – direction to department of public health and human services. (1) Except as provided in subsections (2) through (4), [this act] is effective on passage and approval.

(2) [Sections 6 and 7] are effective June 30, 2017.

(3) [Sections 18 through 26] are effective July 1, 2017.

(4) [Section 8] and the amendments to [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)] are effective on the earlier of:

(a) April 30, 2018; or

(b) the date that the department of public health and human services certifies to the code commissioner that the department is able to carry out the requirements of [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 8, 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)].

(5) The department must notify all licensed providers, marijuana-infused products providers, and testing laboratories of the effective date of [sections 3(4)(b) through (4)(c), 5(5)(a) through (5)(c), 6(6), 8, 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b)] at least 2 months before the date the provisions of those sections will go into effect.

Approved May 19, 2017

CHAPTER NO. 409

[HB 550]

AN ACT REVISING LAWS RELATED TO THE NET OPERATING LOSS DEDUCTION FOR CORPORATE INCOME TAX PURPOSES; REVISING THE CARRYBACK AND CARRYOVER PERIODS; LIMITING A NET OPERATING LOSS CARRYBACK; AMENDING SECTION 15-31-119, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-31-119, MCA, is amended to read:

“15-31-119. Net operating losses – carryovers and carrybacks – limit. (1) The net operating loss deduction is the aggregate of net operating loss carryovers to the ~~taxable~~ *tax* period plus the net operating loss carrybacks to the ~~taxable~~ *tax* period.

(2) The term “net operating loss” means the excess of the deductions allowed by this section over the gross income, with the modifications specified in subsection (6).

(3) If for any ~~taxable tax~~ period ~~beginning after December 31, 1970 ending before January 1, 2018~~, a net operating loss is sustained, the loss must be a net operating loss carryback to each of the three ~~taxable tax~~ periods preceding the ~~taxable tax~~ period of the loss and must be a net operating loss carryover to each of the ~~five taxable seven tax~~ periods following the ~~taxable tax~~ period of the loss.

(4) A net operating loss for any ~~taxable tax~~ period ~~ending beginning~~ after December 31, ~~1975~~ 2017, in addition to being a net operating loss carryback to each of the ~~three three~~ preceding ~~taxable tax~~ periods, must be a net operating loss carryover to each of the ~~seven taxable 10 tax~~ periods following the ~~taxable tax~~ period of the loss. *A net operating loss carryback provided for in this subsection may not exceed \$500,000 per tax period.*

(5) Except as provided in subsection (11), the portion of the loss that must be carried to each of the other ~~taxable tax~~ years must be the excess, if any, of the amount of the loss over the sum of the net income for each of the prior ~~taxable tax~~ periods to which the loss was carried. For purposes of this subsection, the net income for the prior ~~taxable tax~~ period must be computed with the modification specified in subsection (6)(b) and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any ~~taxable tax~~ period after the loss period, and the net income so computed may not be considered to be less than zero.

(6) The modifications referred to in subsection (2) are as follows:

(a) The net operating loss deduction may not be allowed.

(b) The deduction for depletion may not exceed the amount that would be allowable if computed under the cost method.

(c) Any net operating loss carried over to any ~~taxable tax~~ year must be calculated under the provisions of this section effective for the ~~taxable tax~~ year for which the return claiming the net operating loss carryover is filed.

(7) A net operating loss deduction may be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(8) In the case of a merger of corporations, the surviving corporation may not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity may not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(9) Notwithstanding the provisions of 15-31-531, interest may not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(10) The net operating loss deduction must be allowed with respect to ~~taxable tax~~ periods.

(11) A taxpayer entitled to a carryback period for a net operating loss may elect to forego the ~~entire carryback period~~ *entire carryback period*. If the election is made, the loss may be carried forward ~~only only~~. The election must be made on or before the date on which the return is due, including any extension of the due date, for the tax year of the net operating loss for which the election is to be in effect. The election is irrevocable for the year made.

(12) Notwithstanding any other provision of this section, the net operating loss deduction is not allowed in the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(b) of the Internal Revenue Code of 1986, as that section may be amended or renumbered.”

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2017.

Approved May 22, 2017

CHAPTER NO. 410

[SB 11]

AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO BIENNIALLY REVIEW AND UPDATE INTERCONNECTION STANDARDS FOR NET METERING SYSTEMS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 69-8-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-604, MCA, is amended to read:

“69-8-604. Net metering system – reliability and safety. (1) A net metering system used by a customer-generator must include, at the customer-generator’s own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, institute of electrical and electronic engineers, and underwriters laboratories.

(2) The commission, after appropriate notice and opportunity for comment, may adopt by rule additional safety, power quality, and interconnection requirements for customer-generators that the commission ~~or the local governing body~~ determines are necessary to protect public safety and net metering system reliability.

(3) *The commission shall biennially review and update, if necessary, interconnection requirements and rules for customer-generators to ensure that the requirements and rules:*

(a) comply with the most up-to-date national electrical and safety codes and standards; and

(b) are being properly implemented by public utilities subject to this part and other utilities under the commission’s jurisdiction that administer net metering programs.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 411

[SB 15]

AN ACT REVISING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION’S COLLECTION OF FULL MARKET VALUE WHEN ISSUING A HISTORIC RIGHT-OF-WAY DEED; AND AMENDING SECTION 77-1-130, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-130, MCA, is amended to read:

“77-1-130. (Temporary) Recognition of historic right-of-way – criteria for right-of-way deed – conditions – fees. (1) A person or a county may apply to the department for a historic right-of-way deed to provide access to the applicant’s private property, to provide continuation of a county road, or to provide for authorization of existing utilities by filing an application with

the department by October 1, 2021, on a form prescribed by the department. An application must be accompanied by:

- (a) an application fee of \$50;
- (b) a notarized affidavit:
 - (i) demonstrating that the applicant or the applicant's predecessor in interest used the right-of-way applied for before 1997 and that the use has continued to the present;
 - (ii) describing the purpose for which the right-of-way was used before 1997; and
 - (iii) demonstrating that the historic right-of-way applied for is the right-of-way demonstrated in the evidence provided in subsection (1)(c); and
- (c) (i) aerial photographs or *images* taken by an agency of the United States demonstrating use of the right-of-way applied for; or
- (ii) other evidence of the use of the right-of-way applied for.

(2) The department shall review an application and other evidence submitted pursuant to subsection (1) and shall issue a historic right-of-way deed in the name of the applicant if:

(a) the applicant pays the application fee provided in subsection (1)(a) and the ~~fair~~ *full* market value of the historic right-of-way as provided in subsection (4);

(b) the applicant has shown by substantial evidence the matters required in subsections (1)(b) and (1)(c)(i) or (1)(c)(ii);

(c) the department has, if necessary, made a field inspection of the right-of-way applied for; and

(d) the deed is approved by the board.

(3) A historic right-of-way deed issued in the name of the applicant must contain the description of the property of the applicant to which it is appurtenant as provided in the application, and the right-of-way must thereafter be considered appurtenant to that dominant estate. A deed may be assigned by the applicant to the applicant's successor in interest with the approval of the department. The department may not withhold approval for any reason other than that the use of the historic right-of-way is contrary to subsection (5).

(4) (a) At the time of issuing the historic right-of-way deed, the department shall collect from the applicant the full market value of the ~~acreage of estate or interest disposed of for~~ the historic right-of-way.

(b) The amount collected pursuant to subsection (4)(a) must be deposited in the appropriate trust fund established for receipt of income from the land over which a historic right-of-way is granted.

(5) If application is made in accordance with this section, a historic right-of-way deed must be issued by the department, subject to the approval of the board, on the following terms:

(a) the right-of-way is only for the minimum width necessary, as negotiated by the department and the applicant; and

(b) the right-of-way is only for the physical condition of the road or utility facilities existing on the date the historic right-of-way deed is issued by the department.

(6) Issuance of a historic right-of-way deed pursuant to this section is exempt from the requirements of Title 22, chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2.

(7) The survey requirements of 77-2-102 may be waived by the department for the issuance of a historic right-of-way deed if the department determines that there is sufficient information available to define the boundaries of the right-of-way for the purposes of recording the easement.

(8) The department may attach conditions to a historic right-of-way deed necessary to ensure compliance with this chapter.

(9) For the purposes of this section, “historic right-of-way deed” means a document issued by the department granting to the applicant a nonexclusive easement over state land. (Terminates October 1, 2031--secs. 2 through 7, Ch. 325, L. 2015.)”

Approved May 22, 2017

CHAPTER NO. 412

[SB 24]

AN ACT CLARIFYING THE VALUATION PROCESS FOR COMMERCIAL LEASING OF STATE LAND; EXTENDING LEASE PERIODS; DEFINING TERMS; AND AMENDING SECTIONS 77-1-902 AND 77-1-905, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-1-902, MCA, is amended to read:

“77-1-902. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Cancellation” means the cessation of a lessee’s possessory rights and privileges under a lease due to the lessee’s breach of some term of the lease, applicable statutes, or applicable administrative rules.

(2) “Commercial lease” means a contract to use state trust land for a commercial purpose.

(3) (a) “Commercial purpose” means an industrial enterprise, retail sales outlet, business and professional office building, warehouse, motel, hotel, hospitality enterprise, commercial or concentrated recreational use, multifamily residential development, and other similar business.

(b) The term does not include the following uses:

(i) agriculture;

(ii) grazing;

(iii) exploration or development of oil and gas, mineral, and geothermal resources;

(iv) single-family residences, home sites, and cabin sites; and

(v) utility rights-of-way.

(4) “Land value” is the monetary value of the land determined by an appraisal by a certified general appraiser or a department staff appraiser or by a limited valuation.

(5) “Limited valuation” means estimating the land value of commercial lease land by analyzing comparable land valuations conducted within 2 years of the lease commencement date as provided by real estate appraisers, local tax assessors, local realtors, an evaluation of local market rents, or a combination of those methods.

~~(4)~~(6) “Termination” means the automatic completion or ending of the term of a contract according to its provisions. Upon termination, the lessee ceases to have any possessory rights or privileges under a lease.”

Section 2. Section 77-1-905, MCA, is amended to read:

“77-1-905. Rental provisions for commercial leasing – payments and credits – administration – lease options. (1) The first year’s annual rental payment for state trust land leased for commercial purposes must be paid by cashier’s check or electronic funds transfer, as defined in 32-6-103, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department’s cost

of the request for proposals process, including publication and other reasonable expenses. Failure to make the first year's rental payment at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the successful proposer is offered and does not accept the lease, the board may enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

(2) ~~The board shall specify in any commercial lease an annual rental payment equal to the full market rental value of the land.~~ The annual rental payment *is full market value and* may not be less than the product of the ~~appraised value of the land~~ *value* multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used in this subsection must be determined no less than 30 days prior to the execution of the competitive bid. A commercial lease may include a rental adjustment formula established by the board that periodically adjusts the annual rental payment provided for in the lease at frequencies specified in the lease. The board may allow a credit against the annual rental payment for payments made by the lessee on behalf of the state of Montana for construction of structures and improvements, special improvement district assessments, annexation fees, or other city or county fees attributable to the state's property interest in land leased for commercial purposes. The board may accept as lawful consideration in-kind payments of services or materials equal to the full market rental value calculated for any commercial lease. A lease issued under this part may include an amortization schedule to be used to determine the value to the lessee of improvements when the lease is terminated.

(3) The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

(4) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental rate that the board determines to be appropriate. ~~An option to lease may not exceed a term of 2 years.~~ An option to lease may not be construed to grant a right of immediate possession or control over the land but may only preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."

Approved May 22, 2017

CHAPTER NO. 413

[SB 30]

AN ACT REVISING LAWS RELATED TO CRIMINAL STATUTES OF LIMITATIONS; PROVIDING THAT THE STATUTE OF LIMITATIONS FOR VICTIMS OF SEX CRIMES WHO ARE UNDER THE AGE OF 18 YEARS IS 20 YEARS; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-1-205, MCA, is amended to read:

“45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) Except as provided in subsection (9), a prosecution for a felony offense under 45-5-502, 45-5-503, ~~45-5-504~~, or 45-5-507(4) or (5), ~~45-5-625~~, or ~~45-5-627~~ may be commenced within 10 years after it is committed, except that it may be commenced within ~~10~~ 20 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(c) Except as provided in subsection (9), a prosecution under ~~45-5-504~~, 45-5-507(1), (2), (3), or (6), ~~45-5-625~~, or ~~45-5-627~~ may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a

prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed.

(9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) or (1)(c) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing.

(10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the offense is committed.

(11) A prosecution of careless driving resulting in death may be commenced within 3 years after the offense is committed.”

Section 2. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 22, 2017

CHAPTER NO. 414

[SB 57]

AN ACT CLARIFYING FUNDING SOURCES FOR THE HIGHWAY PATROL; PROVIDING FOR AN INCREASE IN CERTAIN VEHICLE REGISTRATION FEES; AMENDING SECTIONS 44-1-501, 44-1-504, AND 61-3-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Legislature created the Montana Highway Patrol to protect and serve the people of Montana and to ensure their safety when traveling on Montana’s roadways; and

WHEREAS, the 2005 Legislature enacted House Bill No. 35, which created a fund to address the recruitment and retention issues within the Highway Patrol; and

WHEREAS, in 2005, the projections for the fund created from House Bill No. 35 predicted the fund to become insolvent in 2014; however, due to the subsequent enactment of permanent registration, the fund was projected to become insolvent by 2010; and

WHEREAS, the Montana Highway Patrol has been a good steward of the fund and has prudently managed it to be solvent longer than initially projected despite the fund receiving reduced revenue due to permanent registration; and

WHEREAS, the fund created by House Bill No. 35 will become insolvent in fiscal year 2017; and

WHEREAS, this act is intended to increase the revenue for the fund created by House Bill No. 35 to allow the Montana Highway Patrol to continue to hire, train, and retain competent officers to ensure that Montana roadways are kept safe for all travelers.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-1-501, MCA, is amended to read:

“44-1-501. Payment of expenses. ~~All expenses of the~~ The highway patrol ~~shall must be partially funded from paid out of~~ the transportation department’s account in the state special revenue fund.”

Section 2. Section 44-1-504, MCA, is amended to read:

“44-1-504. Special revenue account to partially fund highway patrol officers’ salaries. (1) There is an account in the state special revenue fund provided for in 17-2-102.

(2) The money in the account is for the department of justice to fund, pursuant to 2-18-303(5):

(a) the base salary and associated operating costs for highway patrol officer positions; and

(b) biennial salary increases for highway patrol officers.

~~(3) For the purposes of this section, the term “associated operating costs” does not include the state employer contribution provided for in 19-6-404.”~~

Section 3. Section 61-3-321, MCA, is amended to read:

“61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

(a) if the vehicle is 4 or less years old, \$217;

(b) if the vehicle is 5 through 10 years old, \$87; and

(c) if the vehicle is 11 or more years old, \$28.

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector’s items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district,

as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721."

Section 4. Coordination instruction. If House Bill No. 473 and [this act] are both passed and approved and if House Bill No. 473 amends 15-70-403 to increase the gasoline tax in subsection (1)(a) by 8 cents or more, then [this act] is void.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 415

[SB 90]

ANACTREVISINGLAWSREGARDINGDRIVING;REMOVINGMANDATORY INCARCERATION FOR DRIVING WHILE SUSPENDED OR REVOKED; ALLOWING A COURT TO SUSPEND OR DEFER PENALTIES; AMENDING SECTION 61-5-212, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-212, MCA, is amended to read:

“61-5-212. Driving while license suspended or revoked – penalty – second offense of driving without valid license or licensing exemption – seizure of vehicle or rendering vehicle inoperable. (1) (a) A person commits the offense of driving a motor vehicle without a valid license or without statutory exemption or during a suspension or revocation period if the person drives:

(i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or apply for and be issued a driver's license is suspended or revoked in this state or any other state unless the person has obtained a restricted-use driving permit under 61-5-232;

(ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle or from obtaining a commercial driver's license; or

(iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.

(b) (i) ~~Except as provided in subsection (1)(b)(ii), a~~ A person convicted of the offense of driving a motor vehicle without a valid driver's license or without proof of a statutory exemption for the second time ~~or driving during a suspension or revocation period~~ shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500.

(ii) *Except as provided in subsection (1)(b)(iii), a person convicted of the offense of driving during a suspension or revocation period shall be fined an amount not to exceed \$500 or imprisoned for a term of not more than 6 months, or both.*

(ii)(iii) If the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the person shall be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

(2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and be issued a driver's license was suspended or revoked, the department shall extend the period of suspension or revocation for an additional 1-year period.

(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled or the person was disqualified from operating a commercial motor vehicle under federal

regulations, the department shall suspend the person's commercial driver's license in accordance with 61-8-802.

(3) The vehicle owned and operated at the time of an offense under this section by a person whose driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, 61-8-410, or 61-8-411 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted person's county of residence for a period of 30 days.

(4) The sentencing court shall order the action provided for under subsection (3) and shall specify the date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered inoperable by the sheriff within 10 days after the conviction.

(5) A convicted person is responsible for all costs associated with actions taken under subsection (3). Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who is determined to be without fault.

~~(6) A court may not suspend or defer imposition of penalties provided by this section."~~

Section 2. Coordination instruction. If both House Bill No. 133 and [this act] are passed and approved, then [this act] is void.

Section 3. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 22, 2017

CHAPTER NO. 416

[SB 95]

AN ACT AUTHORIZING NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; ESTABLISHING A TEMPORARY STATE LANDS REIMBURSEMENT BLOCK GRANT; PROVIDING FOR LEGISLATIVE INTENT; CREATING A BUREAU OF CRIME CONTROL; PROVIDING TRANSITION INSTRUCTIONS; REQUIRING REPORTING ON THE TRANSITION OF ALLOCATING THE BOARD OF CRIME CONTROL TO THE DEPARTMENT OF CORRECTIONS FOR ADMINISTRATIVE PURPOSES; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative intent. The legislature intends that for the biennium beginning July 1, 2017, the department of corrections will amend its contract with Great Falls Pre-Release Services, Inc., to remove the contract language related to the "Booters" as a result of the passage of House Bill No. 650. The legislature further intends that the department of corrections work cooperatively with Great Falls Pre-Release Services, Inc., to develop an alternative purpose for the contract that is mutually agreeable to both organizations.

Section 2. Crime control bureau. There is a bureau within the office of the director called the crime control bureau. The purpose of the bureau is to provide staff and support to the board of crime control established in 2-15-2006.

Section 3. Transition instructions and reporting. (1) The staff of the board of crime control, the department of justice, and the department

of corrections shall develop a transition plan to allow for the least impactful transition of the board to the department of corrections. The plan must be presented to the legislative finance committee no later than June 30, 2017.

(2) From July 1, 2017, to December 31, 2017, the staff of the board of crime control, in collaboration with the department of corrections, shall implement the plan to fully transition the board to the department of corrections by January 1, 2018, in a manner that ensures the least amount of:

- (a) delay in grant recipients receiving funds;
- (b) impact in reporting for affected grant recipients; and
- (c) impact for transitioning grants between DUNS numbers with the federal government.

(3) To the extent transferring a grant from the department of justice to the department of corrections jeopardizes the grant, as determined by the budget director, the grant may not be transferred to the department of corrections.

(4) The department of corrections shall report at least three times to each of the following committees during the biennium beginning July 1, 2017, on the progress of the transition implementation:

- (a) the legislative finance committee;
- (b) the legislative audit committee;
- (c) the law and justice interim committee; and
- (d) the local government interim committee.

Section 4. State lands reimbursement block grant. (1) (a) For each fiscal year of the biennium beginning July 1, 2017, the office of public instruction shall provide a state lands reimbursement block grant of \$100,000 to each school district in a county with greater than 20% of the county's land area composed of state school trust lands.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district's general fund budget as an anticipated revenue source.

(2) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

Section 5. Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 2, chapter 15, part 23, and the provisions of Title 2, chapter 15, part 23, apply to [section 2].

(2) [Section 4] is intended to be codified as an integral part of Title 20, chapter 9, part 6, and the provisions of Title 20, chapter 9, part 6, apply to [section 4].

Section 6. Coordination instruction. If both [this act] and House Bill No. 650 are passed and approved and House Bill No. 650 amends 61-3-321, then the section amending 61-3-321 in House Bill No. 650 is void and 61-3-321 must be amended as follows:

"61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees. (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) ~~Unless~~ (a) *Except as provided in subsection (2)(b), unless* a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- ~~(a)~~(i) if the vehicle is 4 or less years old, \$217;
- ~~(b)~~(ii) if the vehicle is 5 through 10 years old, \$87; and

(c)(iii) if the vehicle is 11 or more years old, \$28.

(b) *For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.*

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) ~~The~~ *Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:*

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) *For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.*

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(22) (a) *The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in [section 4 of House Bill No. 650].*

(b) *By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the motor vehicle division administration account established in [section 4 of House Bill No. 650].*

Section 7. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the following language must be inserted in Section C of House Bill No. 2:

(1) under "DEPARTMENT OF FISH, WILDLIFE, AND PARKS": "If sufficient federal funds are not received by the department for aquatic invasive species response, then the state special revenue appropriation for aquatic invasive species response may be increased and the federal special revenue decreased by like amounts."

(2) Under "DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION": "If sufficient federal funds are not received by the department for aquatic invasive species response, then the state special revenue appropriation for aquatic invasive species response may be increased and the federal special revenue decreased by like amounts."

Section 8. Coordination instruction. If both [this act] and House Bill No. 650 are passed and approved and House Bill No. 650 amends 2-15-2006, then the section amending 2-15-2006 in House Bill No. 650 is void and 2-15-2006 must be amended as follows:

“2-15-2006. Board of crime control – composition – allocation. (1) There is a board of crime control.

(2) The board is allocated to the department ~~for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply of corrections.~~

(3) The board is composed of 18 members appointed by the governor in accordance with 2-15-124 and any special requirements of Title I of the Omnibus Crime Control and Safe Streets Act, as amended. The board shall be representative of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and shall include representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.”

Section 9. Coordination instruction. If [this act], House Bill No. 650, and Senate Bill No. 59 are all passed and approved, then:

(1) [section 36 of House Bill No. 650] is void; and

(2) [section 3(1)(f) of Senate Bill No. 59] is void and [section 3(1)(d) of Senate Bill No. 59] must read as follows:

“(d) two employees of the department of corrections selected by the director, one of whom must have expertise in data collection and reporting.”

Section 10. Coordination instruction. If both [this act] and House Bill No. 648 are passed and approved then [section 16 of House Bill No. 648] must be amended to read:

“Section 16. Reductions to appropriations for fiscal year 2017. The following appropriations for fiscal year 2017, as enacted in House Bill No. 2 in Ch. 400, Laws of 2015, are reduced as follows:

Department of Justice

Agency Legal Services *Division* from \$6,995,799 in general fund to \$6,870,799.

Office of Public Instruction

School Facility Reimbursement from \$8,586,000 in state special revenue to \$0.”

Section 11. Coordination instruction. If [this act], House Bill No. 473, and House Bill No. 650 are passed and approved then:

(1) [section 35 of House Bill No. 650] is void; and

(2) the reference to 15-70-403(8) and 60-3-201(1)(e) in [section 5(2) of House Bill No. 650] must read “15-70-403(2)(b) and (3)(b)”.

Section 12. Coordination instruction. If [this act], House Bill No. 473, and House Bill No. 650 are passed and approved, then [section 34 of House Bill No. 650] is void.

Section 13. Coordination instruction. If both [this act] and House Bill No. 2 are passed and approved, then the state special revenue appropriations to the department of commerce under “Office of Tourism and Business Development” in Section A of House Bill No. 2 must be increased by \$200,000 in fiscal year 2018 and 2019.

Section 14. Coordination instruction. If House Bill No. 2 and [this act] are passed and approved, then the general fund appropriation for the department of natural resources and conservation under “Water Resources Division” in Section C of House Bill No. 2 must be reduced by \$200,000 in the

fiscal year beginning July 1, 2017, and \$200,000 in the fiscal year beginning July 1, 2018. This reduction is intended to apply to the funding for the operation of the Montana reserved water rights compact commission.

Section 15. Coordination instruction. If House Bill No. 2 and [this act] are passed and approved, then the state special revenue fund appropriations for the department of commerce under “Office of Tourism and Business Development” in Section A of House Bill No. 2 must be increased by \$100,000 in the fiscal year beginning July 1, 2017, and by \$100,000 in the fiscal year beginning July 1, 2018. This increase may only be used to provide grants to entities that address employment barriers through coaching and advocacy, develop skills in managing personal finances, or develop a skilled workforce within the community.

Section 16. Coordination instruction. If House Bill No. 2 and [this act] are both passed and approved, then:

(1) the general fund appropriation for reimbursement block grants in House Bill No. 2 must be increased by \$100,000 in each fiscal year of the biennium beginning July 1, 2017, for the purpose of distributing state lands reimbursement block grants as provided in [section 4]; and

(2) the general fund appropriation for BASE aid in House Bill No. 2 must be reduced by \$34,000 in fiscal year 2018 and by \$42,000 in fiscal year 2019 for the purpose of guaranteed tax base reduction related to the distribution of state lands reimbursement block grants as provided in [section 4].

Section 17. Coordination instruction. If House Bill No. 2, Senate Bill No. 309, and [this act] are all passed and approved, then the state special revenue appropriation for Office of Tourism and Business Development in House Bill No. 2 must be increased by \$110,000 in the year beginning July 1, 2017, and \$120,000 in the year beginning July 1, 2018. The funding is restricted to the state-tribal economic development commission for the purposes of Senate Bill No. 309.

Section 18. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 19. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective July 1, 2017.

(2) [Sections 9 and 10] and this section are effective on passage and approval.

(3) [Sections 2, 5(1), 6, and 8] are effective January 1, 2018.

Section 20. Termination. [Section 4] terminates June 30, 2019.

Approved May 22, 2017

CHAPTER NO. 417

[SB 111]

AN ACT PROHIBITING THE SUPPLEMENTAL FEEDING OF WILD TURKEYS; PROVIDING AN EXEMPTION; AND AMENDING SECTION 87-6-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-216, MCA, is amended to read:

“87-6-216. Unlawful supplemental feeding – exemption. (1) *A Except as provided in subsection (2), a person may not provide supplemental feed attractants to game animals or wild turkeys by:*

(a) purposely or knowingly attracting any cloven-hoofed ungulates, bears, ~~or~~ mountain lions, *or wild turkeys* with supplemental feed attractants;

(b) after having received a previous warning, negligently failing to properly store supplemental feed attractants and allowing any cloven-hoofed ungulates, bears, ~~or~~ mountain lions, *or wild turkeys* access to the supplemental feed attractants; or

(c) purposely or knowingly providing supplemental feed attractants in a manner that results in an artificial concentration of game animals *or wild turkeys* that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.

(2) *A person may provide supplemental feed to wild turkeys unless the department finds that supplemental feed harms the local population of wild turkeys or creates a public nuisance as defined in 45-8-111.*

~~(2)~~(3) A person is not subject to civil or criminal liability under this section if the person is engaged in:

(a) the normal feeding of livestock;

(b) a normal agricultural practice;

(c) cultivation of a lawn or garden;

(d) the commercial processing of garbage; or

(e) recreational feeding of birds unless, after having received a previous warning by the department, the person continues to feed birds in a manner that attracts cloven-hoofed ungulates, ~~or~~ bears, *or wild turkeys* and that may contribute to the transmission of disease or constitute a threat to public safety.

~~(3)~~(4) This section does not apply to supplemental feeding activities conducted by the department for disease control purposes.

~~(4)~~(5) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.”

Approved May 22, 2017

CHAPTER NO. 418

[SB 127]

AN ACT REVISING PUBLIC OFFICE VACANCY LAWS; PROVIDING THAT AN OFFICE BECOMES VACANT ON THE EFFECTIVE DATE STIPULATED IN THE OFFICIAL RESIGNATION OF AN INCUMBENT; PROVIDING THAT RESIGNATIONS MUST STIPULATE AN EFFECTIVE DATE; CLARIFYING LEGISLATOR APPOINTMENT LAWS REGARDING VACANCY AND RESIGNATION; AND AMENDING SECTIONS 2-16-501, 2-16-502, AND 5-2-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-16-501, MCA, is amended to read:

“2-16-501. Vacancies created. An office becomes vacant on the ~~happening~~ *occurrence* of any one of the following events before the expiration of the term of the incumbent:

(1) the death of the incumbent;

(2) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent suffers from a mental disorder and is in need of commitment;

(3) *the effective date stipulated in the resignation of the incumbent becoming effective;*

(4) removal of the incumbent from office;

(5) the incumbent's ceasing to be a resident of the state or, if the office is local, of the district, city, county, town, or township for which the incumbent was chosen or appointed or within which the duties of the incumbent's office are required to be discharged;

(6) except as provided in 10-1-1008, absence of the incumbent from the state, without the permission of the legislature, beyond the period allowed by law;

(7) the incumbent's ceasing to discharge the duty of the incumbent's office for the period of 3 consecutive months, except when prevented by sickness, when absent from the state by permission of the legislature, or as provided in 10-1-1008;

(8) conviction of the incumbent of a felony or of an offense involving moral turpitude or a violation of the incumbent's official duties;

(9) the incumbent's refusal or neglect to file the incumbent's official oath or bond within the time prescribed;

(10) the decision of a competent tribunal declaring void the incumbent's election or appointment."

Section 2. Section 2-16-502, MCA, is amended to read:

"2-16-502. Resignations. (1) Resignations must be in writing, *must stipulate an effective date, and made must be submitted* as follows:

(a)(1) by the governor and lieutenant governor, to the legislature if it is in session and, if not, then to the secretary of state;

(b)(2) by all officers commissioned by the governor, to the governor;

(c)(3) by senators and members of the house of representatives, if the legislature is not in session, to the secretary of state and, if it is in session, to the presiding officer of the branch to which the member belongs, who must immediately transmit the same to the secretary of state;

(d)(4) by all county and township officers not commissioned by the governor, to the clerk of the board of commissioners of their respective counties;

(e)(5) by all other appointed officers, to the body or officer that appointed them;

(f)(6) by all trustees of school districts, to the clerk of the respective school district, provided for in 20-3-325;

(g)(7) in all cases not otherwise provided for, by filing the resignation in the office of the secretary of state.

~~(2) A resignation is effective 72 hours after its submission in the manner provided for in subsection (1) unless the resignation is withdrawn during that 72-hour period by the resigner through written notification of withdrawal made in the same manner as provided in subsection (1) for resignations."~~

Section 3. Section 5-2-402, MCA, is amended to read:

"5-2-402. Appointment by board of county commissioners – county central committee role – timeframes. (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy *as described in 2-16-501* is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a ~~vacant legislative seat~~ *vacancy in the legislature* under this section is as follows:

(a) Within 7 days of being notified of a vacancy ~~as described in 2-16-501~~, the secretary of state shall notify the board of county commissioners and the state party that is responsible for notifying the county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

(i) after receiving the list of prospective appointees from the county central committee or committees;

(ii) after 45 days have expired after the notification of a vacancy if the county central committee or committees have not provided a list of prospective appointees; or

(iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

Approved May 22, 2017

CHAPTER NO. 419

[SB 140]

AN ACT AUTHORIZING THE BOARD OF INVESTMENTS TO MAKE LOANS TO CERTAIN LOCAL GOVERNMENTS FROM THE MONTANA PERMANENT COAL TAX TRUST FUND FOR THE DEVELOPMENT AND MAINTENANCE OF INFRASTRUCTURE; AMENDING SECTIONS 17-6-302 AND 17-6-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-6-302, MCA, is amended to read:

"17-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of investments created in 2-15-1808.

(2) "Clean and healthful environment" means an environment that is relatively free from pollution that threatens human health, including as a minimum, compliance with federal and state environmental and health standards.

(3) "Coal-fired generating unit" means an individual unit of a coal-fired electrical generating facility located in Montana, where the unit has a generating capacity that is greater than or equal to 200 megawatts.

(3)(4) "Department" means the department of commerce provided for in 2-15-1801.

(4)(5) "Employee-owned enterprise" means any enterprise at least 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana each of whose principal occupation is as an employee, officer, or partner of the enterprise.

(6) "Existing infrastructure" means public improvements, including but not limited to:

(a) drinking water systems;

(b) wastewater treatment;

(c) sanitary sewer or storm sewer systems;

(d) solid waste disposal and separation systems;

(e) roads;

(f) bridges; or

(g) any public improvements authorized by Title 7, chapter 11, part 10; Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47.

(5)(7) "Financial institution" includes but is not limited to a ~~state-~~*state-chartered* or federally chartered bank or a savings and loan association, credit union, or development corporation created pursuant to Title 32, chapter 4.

(6)(8) "Intermediary loan" means a loan provided to a local economic development organization with a revolving loan fund to be used to provide matching funds for the U.S. department of agriculture rural development loan program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to programs from the economic development administration of the U.S. department of commerce and the community development financial institution program from the U.S. department of the treasury.

(7)(9) "Loan participation" means loans or portions of loans bought from a financial institution.

(8)(10) "Local economic development organization" means:

(a) (i) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(ii) an entity certified by the department under 90-1-116; or

(iii) an entity established by a local government; and

(b) an entity actively engaged in economic development and business assistance work in the area.

(9)(11) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other ownership interests is owned and controlled by residents of Montana.

(10)(12) "Long-term benefit to the Montana economy" means an activity that strengthens the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenue in the future to the people of Montana, either directly or indirectly.

(11)(13) "Montana economy" means any business activities in the state of Montana, including those that continue existing jobs or create new jobs in Montana.

(12)(14) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund."

Section 2. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (5) (6) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of

science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall allow the board of housing to administer \$40 million of the permanent coal tax trust fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

(6) *The board may make loans from the permanent coal tax trust fund to a city, town, county, or consolidated city-county government impacted by the closure of a coal-fired generating unit to secure and maintain existing infrastructure.*

(6)(7) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(7)(8) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 420

[SB 155]

AN ACT PROVIDING CONSISTENCY OF AGRICULTURAL AND VEGETABLE SEED REGULATION BY THE STATE; PROHIBITING LOCAL GOVERNMENT REGULATION OF AGRICULTURAL SEED; PROVIDING EXCEPTIONS; AMENDING SECTIONS 7-1-111, 80-5-120, AND 80-5-136, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or building codes governing the physical location or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

(16)(17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur

radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(17)(18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18)(19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit."

Section 2. Section 80-5-120, MCA, is amended to read:

"80-5-120. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Advertisement" means a representation, other than a representation on the label, that is disseminated by any means and that relates to seed governed by the provisions of this chapter.

(2) (a) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(b) *The term does not include seeds from plants of the genus Cannabis that contain more than 0.3% tetrahydrocannabinol.*

(3) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the rules for seed testing adopted by the association of official seed analysts.

(4) "Bulk" means not packaged in separate units.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and that has standards and procedures to ensure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (5)(a).

(6) "Conditioning" means drying, cleaning, scarifying, and other operations that could change the purity or germination of a seed and require the seed lot to be retested to determine labeling.

(7) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

(8) "Dormant" means viable seeds, excluding hard seeds, that fail to germinate when provided the specified germination conditions for the seed in question.

(9) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(10) "Genuine grower declaration" means a statement signed by the grower that indicates, for each lot of seed, the lot number, kind, variety, origin, weight, year of production, date, and destination of shipment.

(11) "Germination" means the emergence and development from the seed embryo as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary

length of time for each specific kind of seed, as specified in the rules for seed testing adopted by the association of official seed analysts.

(12) "Hard seeds" means seeds that remain hard at the end of the prescribed test period because they have not absorbed water because of an impermeable seed coat.

(13) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species except open-pollinated varieties of corn (*Zea mays*). The second generation of subsequent generations from those crosses may not be regarded as hybrids. Hybrid designations must be treated as variety names.

(14) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(15) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by the association of official seed analysts.

(16) "Kind" means one or more related species or subspecies that are known singly or collectively by one common name, such as corn, oats, alfalfa, and timothy.

(17) "Labeling" means a tag or other device, attached to or written, stamped, or printed on a container or accompanying a lot of bulk seeds, that purports to set forth the information required on the seed label under 80-5-123 and that may include any other information relating to the labeled seed.

(18) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling.

(19) "Mixture" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

(20) "Montana certified seed grower" means a member of an authorized Montana seed certifying agency who has consented to produce seed under the rules for certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the establishing agency.

(21) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the kind or variety of seed or the mixture of seeds included as pure seed.

(22) "Person" means an individual, firm, partnership, corporation, or association.

(23) "Prohibited noxious weed seeds" means the seeds of plant species that are designated as noxious weeds as defined in 7-22-2101(8)(a)(i).

(24) "Protected variety" means a variety for which a certificate has been issued by the United States plant variety protection office or for which an application for protection has been filed granting the owner or the owner's authorized agent exclusive rights in the sale and distribution of the variety.

(25) "Pure live seed" means the product of the percentage of germination plus hard seed or dormant seed multiplied by the percentage of pure seed, divided by 100, with the result expressed as a whole number.

(26) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered, as determined by methods defined by the association of official seed analysts.

(27) "Restricted weed seeds" means the seeds of any plant that may adversely affect agriculture or the environment and that are designated as restricted weed seeds under rules adopted by the department.

(28) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or conditioning.

(29) "Seed conditioning plant" means a place of business, whether a permanent or portable facility, that conditions seeds.

(30) "Seed dealer" means a person who sells seeds.

(31) "Seed labeler" means a person affixing labels to seeds, with that person's name, address, and other information as required in 80-5-123.

(32) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade. The term includes furnishing agricultural seed to growers for the production of a crop on contract.

(33) "Stop sale" means an administrative order provided by law that restrains the sale, use, disposition, and movement of a definite amount of seed.

(34) "Treated" means that seed has received an application of a substance or has been subjected to a process for which a claim is made.

(35) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(36) "Variety" means a subdivision of a kind that is:

(a) distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties known publicly;

(b) uniform, in the sense that the variations in essential and distinctive characteristics are describable; and

(c) stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

(37) "Vegetable seeds" means seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds or herbs.

(38) "Viable" means that seeds are capable of producing a normal seedling under optimum growing conditions after all forms of dormancy have been overcome, if present.

(39) "Weed seeds" means the seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds."

Section 3. Section 80-5-136, MCA, is amended to read:

"80-5-136. Administration – stop sale order – violation – cancellation of license – enforcement. (1) The department shall administer and enforce the provisions of this part and the rules promulgated under this part.

(2) The department may issue and enforce a written or printed stop sale order to the owner or custodian of any lot of seed that the department finds to be in violation of this chapter. The order shall prohibit further sale or movement of the seed until the department has evidence that this chapter has been complied with. Upon proper correction by reconditioning, labeling, or otherwise and when in the judgment of the department the requirements of this chapter have been met, the stop sale order must be lifted and the seed may be sold. If a violation cannot be corrected after adequate opportunity has been provided, the department may order the destruction of any lot of seed remaining in violation. An order for the destruction of a lot of seed is subject to the contested case provisions of Title 2, chapter 4, part 6.

(3) Distribution of seeds that are not legally labeled or failure to comply with this chapter or rules issued under its authority constitutes sufficient

grounds for the department to cancel or deny a license to a licensee, provided that the licensee is given a reasonable opportunity to correct inadvertent and nonrecurring deficiencies.

(4) A person who violates or aids in the violation of any provision of this chapter or rules adopted under this chapter is subject to one or both of the following penalties:

(a) an administrative civil penalty of not more than \$1,000 for each offense. Assessment of a penalty under this subsection (4)(a) may be made in conjunction with any other warning, order, or administrative action by the department under the authority of this part.

(b) a misdemeanor punishable by a fine of not less than \$100 or more than \$300 plus costs of prosecution for the first violation and not less than \$500 or more than \$1,000 plus costs of prosecution for each subsequent violation.

(5) The department shall establish by rule a penalty matrix that schedules the types of penalties, the amounts for initial and subsequent offenses, and any other matters necessary for the administration of civil penalties under subsection (4)(a). The issuance of a civil penalty is subject to the contested case procedures of Title 2, chapter 4, part 6.

(6) Nothing in this part may be construed as requiring the department or its representatives to report violations of this part when it believes that the public interest will be best served by a suitable notice of warning.

(7) It is the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(8) The department is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this part or any rule promulgated under this part notwithstanding the existence of other remedies at law. An injunction is issued without bond.

(9) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this part may within 30 days bring action in the district court of the county or any county where the alleged violation occurred for trial of the issues bearing upon the act.

(10) (a) *Except as otherwise provided in this chapter, a political subdivision may not regulate by adopting or continuing in effect any local legislation or regulation relating to the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds.*

(b) *Local legislation adopted or continued in violation of this section is void and unenforceable."*

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 421

[SB 159]

AN ACT CLARIFYING THE AUTHORITY OF THE BOARD OF TRUSTEES OF A COMMUNITY COLLEGE DISTRICT RELATED TO CAPITAL PROJECTS AND FINANCING; ALLOWING THE BOARD OF TRUSTEES OF A COMMUNITY COLLEGE DISTRICT TO CONSTRUCT CERTAIN REVENUE-PRODUCING FACILITIES AND PLEDGE REVENUES FROM THE FACILITIES FOR THE REPAYMENT OF LOANS AND BONDS;

AMENDING SECTION 20-15-301, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-15-301, MCA, is amended to read:

“20-15-301. Sources of financing for and types of capital expenditures. (1) The board of trustees of ~~any~~ a community college district may:

(a) purchase, lease, build, enlarge, alter, or repair school buildings and dormitories;

(b) furnish and equip buildings;

(c) purchase sites for buildings; *and*

(d) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of *[section 2]* and chapter 9, part 4, of this title.

(2) The board of trustees of a community college district may borrow money for the purposes of *[section 2]* and this section and repay the obligations from the various revenues of the college *as described in [section 2].*”

Section 2. Revenue-producing facilities – powers of board of trustees. The board of trustees of a community college district may:

(1) purchase, construct, equip, or improve the following types of revenue-producing facilities:

(a) land;

(b) residence halls, dormitories, houses, apartments, and other housing facilities;

(c) dining rooms and halls, restaurants, cafeterias, and other food service facilities;

(d) student union buildings, activity centers, and other facilities;

(e) other revenue-producing facilities as determined by the board of trustees; and

(f) other facilities specifically authorized by joint resolution of the legislature;

(2) rent housing facilities and provide food and other services to the students, officers, guests, and employees of the college at rates that will ensure a reasonable net income over operating expenses and will provide for debt service and reserves and provide for the collection of charges, admissions, and fees for the use of other facilities by students and other persons. The charges, admissions, and fees are not considered tuition and may be collected from any or all students.

(3) hold the net income derived from the operation of the facilities and the charges, admissions, and fees collected and devote the revenue from these sources to debt service and reserves, repairs, replacements, and betterments of the facilities or, so far as the revenue has not been previously obligated for these purposes, to the acquisition, erection, equipping, enlarging, or improvement of additional facilities of the types described in this section;

(4) exercise full control and complete management of the facilities;

(5) rent the facilities to other public or private persons, firms, and corporations for uses, at times, for periods, and at rates that in the board of trustees’ judgment will be consistent with the full use of the facilities for academic purposes and will add to the revenue available for capital costs and debt service;

(6) do all things necessary to plan for and propose financing, including all necessary loan applications, for:

(a) classroom, laboratory, library, bookstore, and other instructional facilities;

(b) office, recordkeeping, storage, equipment maintenance, and other administrative and operational facilities;

(c) stadiums, fieldhouses, armories, arenas, gymnasiums, swimming pools, and other facilities for athletic and military instruction, exhibitions, games, and contests;

(d) auditoriums, theaters, music halls, and other assembly, theatrical, musical, and entertainment facilities;

(e) hospital, nursing, and other health instruction and service facilities;

(f) nurseries, barns, arenas, pavilions, and other facilities for agricultural and livestock breeding, development, and exhibition;

(g) parking lots and ramps and other parking facilities; and

(h) land needed for the facilities;

(7) borrow money for any purpose stated in this section, including, if considered desirable by the board of trustees, the payment of interest on the money borrowed for a facility during the construction of the facility and for 1 year after construction and the creation of a reserve for the payment of bond principal and interest;

(8) make purchases on a time or installment basis;

(9) issue bonds, notes, and other securities, negotiable or otherwise, secured as provided in this section, including bearer bonds with appurtenant interest coupons, which must be fully negotiable notwithstanding any limitation on the source of payment of the bonds, notes, or securities, or fully registered bonds or bonds registered as to ownership of principal only;

(10) pledge for the payment of the purchase price of a facility or of the principal and interest on bonds, notes, or other securities authorized in this chapter or otherwise obligate:

(a) the net income received from rents, board, or both in housing, food service, and other facilities;

(b) receipts from student building, activity, union, and other special fees prescribed by the board of trustees for all students;

(c) other income in the form of:

(i) gifts, bequests, contributions, or federal grants of funds, including the proceeds or income from grants of lands or other real or personal property;

(ii) receipts from athletic and other contests, exhibitions, and performances; and

(iii) collections of admissions and other charges for the use of facilities, including all use by other persons, firms, and corporations for athletic and other contests, exhibitions, and performances and for the conduct of their business, educational, or governmental functions; and

(d) the sum of subsections (10)(a) through (10)(c) in part or in whole;

(11) make payments on loans or purchases from any other available income not obligated for those purposes, including receipts from sale of materials, equipment, and fixtures of the facilities or from sales of the facilities themselves, including land; and

(12) issue and sell or exchange bonds for the refunding of any outstanding bonds or other obligations issued for revenue-producing facilities.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 20, chapter 15, part 3, and the provisions of Title 20, chapter 15, part 3, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 2017.

Approved May 22, 2017

CHAPTER NO. 422

[SB 168]

AN ACT REVISING ELECTRICITY SUPPLY RESOURCE PROCUREMENT PLAN REVIEW; ESTABLISHING PUBLIC MEETING REQUIREMENTS; ESTABLISHING A DEADLINE FOR PLAN REVIEW BY THE PUBLIC SERVICE COMMISSION; AMENDING SECTION 69-8-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-8-420, MCA, is amended to read:

“69-8-420. Electricity supply resource procurement plans – comment on plans. (1) The public utility shall develop electricity supply resource procurement plans. The plans must be submitted to the commission at intervals determined in rules adopted by the commission.

(2) An electricity supply resource procurement plan must demonstrate the public utility’s achievement of the objectives provided in 69-8-419 and compliance with commission rules.

(3) The commission shall:

(a) review the electricity supply resource procurement plan;

(b) provide an opportunity to the public to comment on the plan *in accordance with subsection (4);* and

(c) issue written comments *within 9 months after the plan is submitted to the commission* that identify:

(i) any concerns of the commission regarding the public utility’s compliance with commission rules; and

(ii) ways to remedy any concerns.

(4) *The commission shall hold two public meetings in an area of the state encompassed by the plan. Notice of the meetings must be published once a week for 2 consecutive weeks in a newspaper of general circulation at least 30 days prior to each meeting.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to electricity supply resource procurement plans submitted on or after [the effective date of this act].

Approved May 22, 2017

CHAPTER NO. 423

[SB 173]

AN ACT PROHIBITING THE USE OR SALE OF DEER OR ELK URINE ORIGINATING IN A PLACE WITH DOCUMENTED OCCURRENCES OF CHRONIC WASTING DISEASE; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Imported urine – use or sale prohibited. (1) Except as provided in subsection (2), the use or sale of deer or elk urine to mask human odor is prohibited if the urine originated in a state or province with documented occurrences of chronic wasting disease as determined by the commission.

(2) The commission may allow deer or elk urine otherwise prohibited by subsection (1) if the deer or elk urine is produced in a facility that the commission determines:

(a) complies with a federal or a federally approved chronic wasting disease herd certification program and any federal chronic wasting disease protocols and record requirements;

(b) does not allow importation of live cervids, except in cases of catastrophic loss or herd replenishment;

(c) requires that all cervids exported from the facility be tested for chronic wasting disease upon death and the results are reported to the facility;

(d) is inspected annually by an accredited veterinarian, including inspection of the herd and applicable records; and

(e) maintains a fence at least 8 feet high around the facility and, if the facility is located within 30 miles of a confirmed positive occurrence of chronic wasting disease, is double fenced to prevent direct contact between captive and wild cervids.

(3) (a) Except as provided in subsection (3)(b), a violation of this section is a misdemeanor punishable by a fine of up to \$500 for each separate offense.

(b) Through January 31, 2019, violators of this section must be issued a warning but may not be fined.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 6, part 2, and the provisions of Title 87, chapter 6, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective January 1, 2018.

Approved May 22, 2017

CHAPTER NO. 424

[SB 189]

AN ACT REVISING PROTEST PROCEDURES FOR CREATION OF A SPECIAL PURPOSE DISTRICT; REMOVING THE REQUIREMENT THAT A SPECIAL PURPOSE DISTRICT FORM SPECIFY THAT A PROPERTY OWNER'S LACK OF ACTION BE CONSTRUED AS SUPPORT FOR CREATION OF THE DISTRICT; CLARIFYING THAT FORMS RETURNED WITH SUPPORT FOR OR OPPOSITION AGAINST CREATION OF THE DISTRICT MAY BE USED IN DETERMINING SUFFICIENCY OF PROTEST; AND AMENDING SECTION 7-11-1008, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-11-1008, MCA, is amended to read:

“7-11-1008. Right to protest – procedure – hearing. (1) An owner of property that is liable to be assessed for the program or improvements in the proposed special district has 60 days from either the date of the first publication of the notice of passage of the resolution of intention or the date the protest form provided for in subsection (2)(c) was sent to property owners, whichever is later, to make a written protest against the proposed program or improvements.

(2) (a) A property owner may register a written protest under either subsection (2)(b) or (2)(c).

(b) A property owner may register a written protest in any format in conformity with this section. The protest must identify the property in the district owned by the protestor by either its street address or its legal description, whichever the property owner prefers, be signed by a majority of the owners of that property, and be delivered to the clerk of the governing body, who shall endorse on the protest the date of receipt.

(c) The governing body shall send each person referred to in 7-11-1007(3)(c) a protest form with space for any information required under subsection (2)(b) of this section, mailing instructions, and the date the form must be returned to the governing body. ~~The form must specify that if it is not returned, the owner's lack of action must be construed as support of the creation of the special district.~~ The form must allow a property owner to select either support for or opposition against the creation of the district. ~~However, if an owner does not make a selection of support or opposition and returns the form to the governing body, it must be construed as a protest of the creation of the special district.~~ *The forms returned with an indication of either support for or opposition against the creation of the district may be used, along with written protests submitted under subsection (2)(b), in determining whether sufficient protest has been filed to prevent further proceedings.*

(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, a record owner of fee simple title to the property or a contract buyer on file with the county clerk and recorder.

(b) The term does not include a tenant of or other holder of a leasehold interest in the property.

(4) An owner of property created as a condominium may protest pursuant to the provisions in 7-11-1027.

(5) (a) At the hearing provided for in 7-11-1007, the governing body shall consider all protests.

(b) If the protest is made by the owners of property in the proposed district to be assessed for:

(i) 50% or more of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, further proceedings may not be taken by the governing body for at least 12 months; or

(ii) more than 10% but less than 50% of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, and if the governing body decides to proceed with proposing the district, the governing body shall order a referendum in accordance with 7-11-1011.

(c) In determining whether or not sufficient protests have been filed in the proposed special district to prevent further proceedings, property owned by a governmental entity must be considered the same as any other property in the district.

(d) The decision of the governing body is final and conclusive.

(e) The governing body may adjourn the hearing from time to time."

Approved May 22, 2017

CHAPTER NO. 425

[SB 193]

AN ACT GENERALLY REVISING BEHAVIOR ANALYST LAWS; CREATING LICENSURE AND REGULATIONS FOR CERTAIN BEHAVIOR ANALYSTS; MODIFYING THE BOARD OF PSYCHOLOGISTS TO INCLUDE A BEHAVIOR ANALYST; PROVIDING DEFINITIONS AND EXCEPTIONS TO LICENSURE; ESTABLISHING AUTONOMY FOR BEHAVIOR ANALYSTS AND SUPERVISION OF ASSISTANT BEHAVIOR ANALYSTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 2-15-1741, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1741, MCA, is amended to read:

"2-15-1741. Board of psychologists. (1) There is a board of psychologists.

(2) The board consists of ~~six~~ six members appointed by the governor with the consent of the senate. Two members must be licensed psychologists in private practice, one member must be a licensed psychologist in public health, one member must be a licensed psychologist engaged in the teaching of psychology, *one member must be a behavioral analyst licensed under [sections 2 through 7],* and ~~two members~~ one member must be from the general public. A member may not serve more than two consecutive 5-year terms.

(3) Members shall serve staggered 5-year terms.

(4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121.”

Section 2. Purpose. The legislature finds and declares that the practice of applied behavior analysis in Montana affects public health, safety, and welfare, particularly of some of the state’s most vulnerable citizens, including individuals with disabilities. Therefore, licensure and regulation of applied behavior analysts is in the public interest to protect the public from unauthorized, unethical, unprofessional, or harmful conduct by individuals, other than those otherwise licensed or those exempt under [section 5].

Section 3. Definitions. For the purposes of [sections 2 through 7], the following definitions apply:

(1) “Assistant behavior analyst” means an individual licensed under [section 4] who has a qualifying bachelor’s degree and has passed the board-certified assistant behavior analyst examination of the behavior analyst certification board.

(2) “Behavior analyst” means an applied behavior analyst who is licensed under [section 4] and has passed the board-certified behavior analyst examination of the behavior analyst certification board.

(3) “Behavior analyst certification board” means the nonprofit corporation whose credentialing programs for behavior analysts are accredited by the national commission for certifying agencies.

(4) “Board” means the board of psychologists provided for in 2-15-1741.

(5) (a) “Practice of applied behavior analysis” means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of applied behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis links the scientific study of behavior with the direct observation and measurement of behavior and the environment plus the application of skills to help people develop new behaviors, increase or decrease existing behaviors, or adjust behaviors under specific environmental conditions.

(b) The term does not include psychological evaluation, diagnosis of a mental or physical disorder, neuropsychology, long-term counseling as a treatment modality, or psychotherapy, including cognitive therapy, sex therapy, psychoanalysis, or hypnotherapy.

Section 4. License required – qualifications. (1) An individual may not represent to the public that the individual is an assistant behavior analyst or a behavior analyst without a license issued under this section.

(2) The board shall license as a behavior analyst or an assistant behavior analyst an individual who:

(a) has submitted an application as determined by the board by rule;

(b) has paid required applicant fees and subsequent renewal fees;

(c) has passed a state-approved criminal background check;

(d) has provided evidence of current certification at the appropriate level from the behavior analyst certification board;

(e) is of good moral character; and
(f) attests to abiding by professional and ethical requirements indicated in the Professional and Ethical Compliance Code for Behavior Analysts recognized by the behavior analyst certification board.

(3) To obtain a license as a behavior analyst an individual must meet the requirements in subsection (2) and:

(a) must have passed the board-certified behavior analyst examination by the behavior analyst certification board;

(b) be currently certified as a behavior analyst by the behavior analyst certification board; and

(c) have met the educational course work and requirements set by the board by rule.

(4) To obtain a license as an assistant behavior analyst an individual must meet the requirements in subsection (2) and:

(a) must have passed the board-certified assistant behavior analyst examination by the behavior analyst certification board;

(b) be currently certified as an assistant behavior analyst by the behavior analyst certification board; and

(c) have met the educational course work and requirements set by the board by rule.

Section 5. Exemptions. (1) A license under [sections 2 through 7] is not required for school district personnel, including those who provide special education as defined in 20-7-401, family support specialists with autism endorsement, licensed psychologists and those acting under the psychologists' authority, licensed clinical professional counselors, licensed social workers, family members, or persons in direct contact with individuals otherwise served by behavior analysts or assistant behavior analysts licensed under [sections 2 through 7].

(2) Organizational behavior management consultants and behavior analysts who work with animals do not require a license under [sections 2 through 7] for the practice of applied behavior analysis for working with organizations or animals.

(3) A student in an approved post-secondary program for behavior analysis may be exempted from having a license if the student, including a student intern, is working under the supervision of appropriate university faculty in the conduct of behavior analytic activities.

(4) A behavior technician who is supervised by a behavior analyst licensed under [sections 2 through 7] is exempted from having a license under [sections 2 through 7].

(5) An individual described in subsection (1), (2), (3), or (4) may choose to apply for licensure by meeting the requirements in [section 4].

Section 6. Autonomy – supervision authority. (1) A behavior analyst licensed under [sections 2 through 7] has treatment authority for the practice of applied behavior analysis.

(2) An assistant behavior analyst or a behavior technician when engaged in the practice of applied behavior analysis must be supervised by:

(a) a behavior analyst licensed under [sections 2 through 7]; or

(b) a licensed psychologist certified by the American board of professional psychology in behavioral and cognitive psychology.

Section 7. Rulemaking. (1) The board may adopt rules to implement [sections 2 through 7] plus the requirements in Title 37, chapters 1 through 3, as they apply to disciplinary action, unprofessional conduct, continuing education, implementation and costs of criminal background checks, or recognizing commensurate military experience as a qualification in licensure.

(2) The board shall adopt license fees for behavior analysts and assistant behavior analysts that adequately fund the costs of implementing [sections 2 through 7].

Section 8. Codification instruction. [Sections 2 through 7] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 2 through 7].

Approved May 22, 2017

CHAPTER NO. 426

[SB 196]

AN ACT REVISING LAW RELATED TO TRAFFIC VIOLATIONS IN WORK ZONES; CLARIFYING WORK ZONE TRAFFIC VIOLATION PENALTIES; AND AMENDING SECTIONS 61-8-301, 61-8-314, AND 61-8-370, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-301, MCA, is amended to read:

“61-8-301. Reckless driving – reckless endangerment of highway worker. (1) A person commits the offense of reckless driving if the person:

(a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or

(b) operates a vehicle in willful or wanton disregard for the safety of persons or property while passing, in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as provided in 61-8-351 and 61-9-402. This subsection (1)(b) does not apply to situations described in 61-8-351(6).

(2) A municipality may enact and enforce 61-8-715 and subsection (1) of this section as an ordinance.

(3) A person who is convicted of the offense of reckless driving or of reckless endangerment of a highway worker is subject to the penalties provided in 61-8-715.

(4) (a) A person commits the offense of reckless endangerment of a highway worker if the person purposely, knowingly, or negligently drives a motor vehicle in a highway ~~construction~~ *work* zone in a manner that endangers persons or property or if the person purposely removes, ignores, or intentionally strikes an official traffic control device in a ~~construction~~ *work* zone for reasons other than:

(i) avoidance of an obstacle;

(ii) an emergency; or

(iii) to protect the health and safety of an occupant of the vehicle or of another person.

(b) As used in this section:

(i) ~~“construction zone” has the same meaning as is provided in 61-8-314;~~
and

(ii) “highway worker” means an employee of the department of transportation, a local authority, a utility company, or a private contractor;
and

(ii) “work zone” has the meaning provided in 61-8-314.”

Section 2. Section 61-8-314, MCA, is amended to read:

“61-8-314. Traffic violations in construction zone and work zone – definitions. (1) As used in this section, the following definitions apply:

(a) ~~“Construction zone” means an area on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work~~

is being performed by the department of transportation, a local authority, a utility company, or a private contractor under contract with the department of transportation or a local authority. A construction zone may include a work zone. *"Highway worker" has the same meaning as in 61-8-301.*

(b) "Public highway" has the same meaning as in 60-1-103.

(c) "Work zone" means ~~the area where the construction, repair, maintenance, or survey work is actually taking place~~ *an area on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work is being performed by the department of transportation, a local authority, a utility company, or a private contractor with the department of transportation or with a local authority.* The boundaries of the work zone must be clearly identified by the posting of signs.

(2) A person may not operate a motor vehicle ~~in a construction zone or in a work zone~~ on a public highway in violation of any of the provisions of part 3 of this chapter.

(3) The speed limit ~~in a construction zone or in a work zone~~ must be set by the department of transportation or the local authority based on traffic conditions or the condition of the construction, repair, maintenance, or survey project.

(4) (a) If the department of transportation, the local authority, the utility company, or the private contractor determines, based on traffic conditions or the condition of the construction, repair, maintenance, or survey project, that special speed limits in work zones ~~or construction zones~~ are warranted, then the department, the local authority, the utility company, or the private contractor shall post signs that:

(i) conform to the department of transportation's manual on uniform traffic control devices;

(ii) indicate the boundaries of ~~the construction zone and the work zone~~; and

(iii) display the speed limit in effect within ~~both zones~~ *the work zone*.

(b) The department of transportation, the local authority, the utility company, or the private contractor shall clearly indicate at the boundary of a ~~construction~~ *work* zone that a person who violates any of the provisions of part 3 of this chapter in the work zone is subject to the fine provided in subsection (5)(a).

(c) The boundaries of the work zone may not exceed 500 feet in advance of and beyond the actual construction activity.

(d) The department of transportation, the local authority, the utility company, or the private contractor shall remove or cover the signs when no work is in progress and no hazard exists.

(5) (a) A person convicted of a traffic violation in a work zone is guilty of a misdemeanor. Upon arrest and conviction;

(a) *if a highway worker was present in the work zone at the time and place of the traffic violation*, the person shall be punished by a fine of not less than double the penalty provided for the violation in part 7 of this chapter; or

(b) *if no highway worker was present in the work zone at the time and place of the traffic violation*, the person is subject to the penalty provided for the violation in part 7 of this chapter.

(b) A person convicted of a traffic violation in a construction zone is guilty of a misdemeanor. Upon arrest and conviction, the person is subject to the penalty provided for the violation in part 7 of this chapter."

Section 3. Section 61-8-370, MCA, is amended to read:

"61-8-370. Securing of load – requirement – exemptions. (1) A person operating a loaded vehicle on a public highway shall load the vehicle or secure

the load sufficiently to prevent littering or creating an obstruction dangerous to the public traveling on the highway.

(2) The following vehicles are exempt from the provisions in subsection (1):

(a) a commercial motor vehicle that is operating in compliance with state and federal laws and requirements governing the securing of loads;

(b) a vehicle transporting processed or unprocessed agricultural products or inputs, including but not limited to fertilizer, manure, and pesticides;

(c) a vehicle performing road maintenance; and

(d) a vehicle in a marked ~~construction~~ *work* zone.”

Approved May 22, 2017

CHAPTER NO. 427

[SB 218]

AN ACT REVISING THE APPRENTICE HUNTER PROGRAM; MAKING ELIGIBLE PERSONS 18 YEARS OF AGE AND OLDER; CLARIFYING THAT PERSONS YOUNGER THAN 12 YEARS OF AGE WHO COMPLETE A HUNTER SAFETY AND EDUCATION COURSE ARE ELIGIBLE; CHANGING MENTOR REQUIREMENTS FOR THOSE 18 YEARS OF AGE AND OLDER; PROHIBITING AN APPRENTICE HUNTER FROM OBTAINING A BLACK BEAR, MOUNTAIN LION, OR WOLF LICENSE; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-2-105 AND 87-2-810, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-105, MCA, is amended to read:

“**87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection (4) or (6);

(b) a hunter safety course in any other state or province; or

(c) a Montana hunter safety and education course that qualifies the person for a provisional certificate as provided in 87-2-126.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member’s dependents, as defined in 15-30-2115, who reside in the member’s Montana household, unless the person authorized to issue the license determines proof of completion of a hunter safety course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department’s bow and

arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

(5) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to a person successfully completing the course.

(6) The department may develop an adult hunter safety and education course.

(7) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

Section 2. Section 87-2-810, MCA, is amended to read:

"87-2-810. Apprentice hunting certificate. (1) A person who is 10 years of age or older and ~~under 18 years of age~~ who has not completed a hunter safety and education course pursuant to 87-2-105 is eligible to apply for an apprentice hunting certificate that entitles the holder to obtain and use hunting licenses and permits in accordance with this title and the provisions of this section.

(2) A person may obtain an apprentice hunting certificate for no more than 2 license years before the person must complete a Montana hunter safety and education course pursuant to 87-2-105. *Completing a Montana hunter safety and education course prior to turning 12 years of age does not preclude a person who is at least 10 years of age from being eligible to obtain and use hunting licenses pursuant to this section. As used in this subsection (2), "completing a Montana hunter safety and education course" means passing a hunter safety and education course or a bowhunter education course provided pursuant to 87-2-105(4) through (6), including the required test and field day.*

(2)(3) A person who obtains an apprentice hunting certificate must be in the company of a mentor when hunting and shall conduct all hunting in accordance with this section and within the terms and conditions of the license or permit issued.

(3)(4) To qualify as a mentor who will accompany an apprentice hunter, a person must:

(a) be at least 21 years of age;

(b) *if the apprentice hunter is under 18 years of age*, be related to the apprentice hunter by blood, adoption, or marriage, be the legal guardian of the apprentice hunter, or be a person designated by a parent or legal guardian as being capable and qualified to assist the apprentice hunter;

(c) have completed a hunter safety and education course pursuant to 87-2-105;

(d) have a current Montana hunting license;

(e) have agreed to accompany and supervise the apprentice hunter and remain within sight of and direct voice contact with the apprentice hunter at all times while in the field; and

(f) confirm that the apprentice hunter possesses the physical and psychological capacity to safely and ethically engage in hunting activities.

(4)(5) Subject to the conditions of this section, the department shall issue an apprentice hunting certificate upon payment of a fee of \$5. This fee must be deposited in the state special revenue fund account to the credit of the department for hunter education purposes.

(5)(6) The department shall issue an apprentice hunting certificate that allows an apprentice hunter to be accompanied by multiple mentors.

(6)(7) Except as provided in subsection (7) (8), a person who obtains an apprentice hunting certificate may purchase any unlimited hunting license or permit by any applicable deadline for the fee established pursuant to this chapter, including:

(a) a reduced cost license for which the applicant qualifies. An apprentice hunter who is under 12 years of age is eligible to obtain the unlimited reduced cost licenses available to a person who is 12 years of age.

(b) a wild turkey tag if it is issued in an unlimited number.

(7)(8) A person who obtains an apprentice hunting certificate is not eligible:

(a) to obtain a Class A-2 special bow and arrow license without having:

(i) completed a bowhunter education course; and

(ii) turned 12 years of age by January 16 of the license year;

(b) to obtain a black bear license;

(c) to obtain a mountain lion license;

(b)(d) to obtain a Class D-3 resident hound training license;

(e) to obtain a wolf license;

(c)(f) to participate in a drawing with a limited quota;

(d)(g) to obtain a mountain sheep license in any area where the licenses are issued in unlimited numbers; or

(e)(h) to obtain an elk license if the apprentice hunter is under 15 years of age.

(8)(9) An apprentice hunter who violates the terms of this section or a mentor who violates the terms of this section while accompanying an apprentice hunter is subject to the loss of privileges granted by this section for up to one full license season.”

Section 3. Effective date. [This act] is effective July 1, 2017.

Approved May 22, 2017

CHAPTER NO. 428

[SB 258]

AN ACT PROVIDING PROCEDURES FOR ELECTRONICALLY ISSUED SEARCH WARRANTS; AUTHORIZING ELECTRONIC SIGNATURES FOR ELECTRONICALLY ISSUED SEARCH WARRANTS; REQUIRING SEARCH WARRANT DOCUMENTS TO BE RETAINED IN COURT RECORDS; LIMITING LEGAL CHALLENGES TO ELECTRONICALLY ISSUED SEARCH WARRANTS; AMENDING SECTION 46-5-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-5-222, MCA, is amended to read:

“46-5-222. Search warrants issued *electronically* or by telephone.

(1) Whenever an application for a search warrant is made by telephone, the applicant shall, in addition to the requirements contained in 46-5-221, state reasons to justify immediate issuance of a search warrant.

(2) (a) All testimony given over the telephone or *electronically* that is intended to support an application for a search warrant must be given on oath or affirmation and must identify the person testifying. For the purpose of this section, the judge is authorized to administer an oath or affirmation by telephone.

(b) *All testimony in support of an application for a search warrant issued electronically must be:*

(i) *subscribed by the applicant in accordance with 1-6-105; and*

(ii) *attached to or logically associated with the electronic signature of the applicant as provided in 30-18-110.*

(3) (a) Sworn or affirmed testimony given over the telephone must be electronically recorded by the judge or a peace officer on a recording device in the custody of the judge or peace officer when the application is made.

(b) If the recording is made by the judge, the recording must be retained in the court records and must be transcribed verbatim as soon as possible after the application is made. The recording must include the time and date it was recorded.

(c) If the recording is made by a peace officer, the recording must be transcribed verbatim as soon as possible after the application for the warrant is made. The recording must contain the time and date when it was recorded. The peace officer making the recording shall, as soon as possible, provide the judge with the original recording and a transcription of the recording so that the judge may expeditiously verify the accuracy of the transcription. The original recording must be retained in the court records. The peace officer making the recording shall secure a copy of the recording and transcription of the recording in the same manner as other evidence is secured.

(4) (a) *For a search warrant issued electronically, the applicant shall transmit to the judge an electronic record that is capable of being retained by the judge at the time the following is received:*

(i) *the application with an electronic signature that is attached to or logically associated with the application; and*

(ii) *as soon as possible after issuance, a copy of any warrant a judge signs by electronic signature.*

(b) *The electronic record transmitted pursuant to this subsection (4) must include the date and time of transmission and be retained in the court records.*

(4)(5) (a) If the judge approves a warrant over the telephone, the peace officer serving the warrant shall sign the search warrant in the officer's own name and in the judge's name. The peace officer signing the judge's name shall initial the judge's name indicating the signature was authorized by the judge but signed by the officer.

(b) *If the judge signs the warrant by electronic signature, the peace officer serving the warrant shall initial the electronic signatures of the peace officer and the judge to indicate that the signatures were made electronically in accordance with this section.*

(5)(6) Any search warrant issued by telephone must be signed by the issuing judge or the judge's successor as soon as possible after it has been issued.

(7) *An electronically issued warrant may not be challenged in a proceeding on the basis that either the copy of an application that is electronically made*

or the copy of a warrant a judge signs by electronic signature is improper if the electronic record is retained in the court records as either:

- (a) an electronic record in accordance with 30-18-111; or*
- (b) a printed copy of an electronic record properly transmitted in accordance with subsection (4)."*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 429

[SB 261]

AN ACT REVISING BUDGETING LAWS; ESTABLISHING AN OPERATING RESERVE AND A BUDGET STABILIZATION RESERVE FUND; AUTHORIZING THE GOVERNOR TO USE BUDGET STABILIZATION RESERVE TO PAY DEBT OR TO DELAY, FOREGO, OR REDUCE BONDING WHEN THERE IS EXCESS GENERAL FUND REVENUE; ENACTING RULES FOR DEPOSITS; PROVIDING FOR A CONTINGENT FUND TRANSFER FROM THE FIRE SUPPRESSION ACCOUNT TO THE GENERAL FUND; PROVIDING LEGISLATIVE INTENT; PROVIDING FOR ELIMINATION AND REDUCTIONS TO VARIOUS APPROPRIATIONS AND EXPENDITURES BASED ON GENERAL FUND REVENUE RECEIVED IN FISCAL YEARS 2017 AND 2018; IMPOSING NOTIFICATION DUTIES ON THE STATE TREASURER; AMENDING SECTIONS 17-7-102, 17-7-111, 17-7-131, 17-7-140, AND 76-13-150, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Budget stabilization reserve fund – rules for deposits and transfers – purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the budget stabilization reserve fund.

(2) The purpose of the budget stabilization reserve fund is:

- (a) to mitigate budget reductions when there is a revenue shortfall; and
- (b) when there are funds in excess of the operating reserve level, to:
 - (i) pay down the debt service on bonds for capital projects previously authorized by the legislature if allowed without penalty by the terms of the bond issuance;
 - (ii) delay, forego, or reduce the amount of an issuance of bonds authorized by the legislature; and
 - (iii) allow the funds to remain in the account.

(3) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the following:

(a) the unaudited, unassigned ending fund balance of the general fund for the prior fiscal year; and

(b) the amount of unaudited general fund revenue and transfers into the general fund received in the prior fiscal year recorded when that fiscal year's statewide accounting, budgeting, and human resource system records are closed. General fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102.

(4) For the fiscal years beginning July 1, 2016, through July 1, 2020, if actual general fund revenue exceeds the revenue estimate established pursuant

to 5-5-227 for that fiscal year, excess revenue over the amount of revenue that exceeds the revenue estimate by \$15 million is allocated as follows:

(a) 50% remains in the general fund; and

(b) 50% is transferred into the budget stabilization reserve fund on or before August 15 of the following fiscal year.

(5) Starting in the fiscal year beginning July 1, 2021, the state treasurer shall transfer, by August 15 of the following fiscal year:

(a) if there is not an operating reserve differential, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year;

(b) if there is an operating reserve differential for the fiscal year, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year less the operating reserve differential; and

(c) if the ending fund balance of the general fund for the prior year is less than 6.8% of the amount of all general fund appropriations in the second year of the biennium, from the budget stabilization reserve fund to the general fund up to one-half of the amount in the budget stabilization reserve fund in excess of the amount of 2% of all general fund appropriations in the second year of the biennium in the subsequent fiscal year.

(6) For the purposes of this section, the following definitions apply:

(a) "Adjusted revenue" means general fund revenue for the prior fiscal year plus the growth amount.

(b) "Excess revenue" means the amount of general fund revenue, including transfers in, for the most recently completed fiscal year minus adjusted revenue.

(c) "Growth amount" means general fund revenue for the prior fiscal year multiplied by the growth rate.

(d) "Growth rate" means the average compound rate of growth of general fund revenue for the most recently completed 6 fiscal years.

(e) "Operating reserve differential" means a nonnegative difference from 8.3% of all general fund appropriations in the second year of the biennium minus the sum of the ending fund balance for the prior year and 50% of excess revenue of the prior year.

Section 2. Section 17-7-102, MCA, is amended to read:

"17-7-102. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) “Base budget” means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(b) The term does not include:

(i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

(ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in 75-11-521 are not met.

(5) “Budget amendment” means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) “*Budget stabilization reserve*” means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 4.5% of all general fund appropriations in the second year of the biennium.

(6)(7) “Emergency” means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency’s appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency’s expenditure requirements for the performance of the function or functions.

(7)(8) “Funds subject to appropriation” means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8)(9) “Necessary” means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9)(10) “New proposals” means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(11) “*Operating reserve*” means an amount equal to 8.3% of all general fund appropriations in the second year of the biennium.

(10)(12) “Present law base” means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11)(13) “Program” means a principal organizational or budgetary unit within an agency.

(12)(14) “Requesting agency” means the agency of state government that has requested a specific budget amendment.

(13)(15) “University system unit” means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula;

the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2028--sec. 11, Ch. 269, L. 2015.)

17-7-102. (Effective July 1, 2028) Definitions. As used in this chapter, the following definitions apply:

(1) “Additional services” means different services or more of the same services.

(2) “Agency” means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) “Approving authority” means:

(a) the governor or the governor’s designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice’s designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) “Base budget” means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) “Budget amendment” means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) “*Budget stabilization reserve*” means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 4.5% of all general fund appropriations in the second year of the biennium.

(6)(7) “Emergency” means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency’s appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency’s expenditure requirements for the performance of the function or functions.

(7)(8) “Funds subject to appropriation” means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8)(9) “Necessary” means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9)(10) “New proposals” means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(11) “*Operating reserve*” means an amount equal to 8.3% of all general fund appropriations in the second year of the biennium.

(10)(12) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11)(13) "Program" means a principal organizational or budgetary unit within an agency.

(12)(14) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13)(15) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

Section 3. Section 17-7-111, MCA, is amended to read:

"17-7-111. Preparation of state budget – agency program budgets – form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) Subject to subsections (7) and (8), the agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101, for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523;

(h) energy cost saving information as required by 90-4-616; and

(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations

for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

~~(7) (a) The department of public health and human services' budget request for the 2013 biennium must identify changes necessary to reduce the 2013 biennium expenditures to the level funded in the general appropriations act. The department may include changes such as reducing administrative costs, developing more cost-efficient methods to deliver services, limiting the number of medicaid services that adults may receive, changing medicaid services included in the Montana medicaid state plan, changing eligibility or level-of-care requirements for medicaid waiver services, limiting or changing services that are fully state-funded, or implementing other initiatives that reduce state funds. Achieving the necessary general fund reduction in the 2013 biennium budget request may not include shifting costs to state special revenue funds.~~

~~(b) The department of public health and human services shall prepare a work plan with goals, milestones, and measures to guide its review of alternatives to identify, evaluate, and select initiatives to reduce ongoing state spending in its 2013 biennium budget submission. The department shall submit the work plan, goals, milestones, and measures to the legislative finance committee at its first meeting after the adjournment of the 2009 legislative session for its review and comment. The department shall provide an update of its budget~~

~~reduction for review and comment at each legislative finance committee meeting in a format developed with and agreed upon by the committee.~~

~~(8) Each agency budget request for the 2013 biennium must include the adjustments to present law base specified in 17-7-102(10)(b)."~~

Section 4. Section 17-7-131, MCA, is amended to read:

"17-7-131. Legislative action – ending fund balance. (1) The presiding officers of the house of representatives and of the senate shall promptly refer the budgets and budget bills to the proper committees. The budget bill for the maintenance of the agencies of state government and the state institutions must be based upon the budget and proposed budget bill submitted at the request of the governor. The legislature may amend the proposed budget bill, but it may not amend the proposed budget bill so as to affect either the obligations of the state or the payment of any salaries required to be paid by the constitution and laws of the state.

(2) The adopted budget must be limited so that a positive ending general fund balance exists at the end of the biennium for which funds are appropriated.

(3) *When possible, the adopted budget should be limited so that the ending fund balance of the general fund is greater than or equal to the amount of the operating reserve."*

Section 5. Section 17-7-140, MCA, is amended to read:

"17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) ~~3.5% of all general fund appropriations for the biennium prior to October of the year preceding a legislative session;~~

(ii) ~~1.875% of all general fund appropriations for the biennium in October of the year preceding a legislative session;~~

(iii) ~~1.25% of all general fund appropriations for the biennium in January of the year in which a legislative session is convened; and~~

(iv) ~~0.625% of all general fund appropriations for the biennium in March of the year in which a legislative session is convened.~~

(i) *6% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;*

(ii) *3% of the general fund appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;*

(iii) *2% of the general fund appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and*

(iv) *1% of the general fund appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.*

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each

agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- (i) 5% 5% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
 - (ii) 1.875% in October of the year preceding a legislative session;
 - (iii) 1.25% in January of the year in which a legislative session is convened;
- and

(iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any

recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsections (6) and (7).

(6) The governor may authorize transfers from the budget stabilization reserve fund provided for in [section 1]. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.

(7) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds available for a transfer from this account is up to the sum of the fund balance of the account, plus expected current year revenue, minus the sum of 1% of the general fund appropriations for the second fiscal year of the biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending."

Section 6. Section 76-13-150, MCA, is amended to read:

"76-13-150. Fire suppression account – fund transfer. (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for the purpose of paying expenses for fire prevention, including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment for county cooperatives, and fire suppression costs.

(5) Interest earned on the balance of the account is retained in the account.

(6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

(8) The fund balance in the account may not exceed ~~\$100 million~~ 4% of all general fund appropriations in the second year of the biennium.

(9) For the fiscal year ending June 30, 2017, the state treasurer may not transfer from the general fund to the fire suppression account.

~~(9)~~(10) Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration.

~~(10)~~(11) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4)."

Section 7. Levels 1 through 4 budget reductions – contingent fund transfer from fire suppression account. (1) (a) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,216,000,000 but greater

than or equal to \$2,204,000,000, as determined by the state treasurer on or before August 15, 2017, then the state treasurer shall transfer the amount provided for in subsection (1)(b) from the fire suppression account provided for in 76-13-150 to the general fund.

(b) The amount of the fund transfer provided for in subsection (1)(a) is equal to \$2,216,000,000 minus the amount of certified unaudited state general fund revenue and transfers into the general fund at the end of fiscal year 2017, not to exceed \$12 million.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,204,000,000 but greater than or equal to \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, then the state treasurer shall transfer \$24 million from the fire suppression account provided for in 76-13-150 to the general fund.

(3) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, then the state treasurer shall transfer \$30 million from the fire suppression account provided for in 76-13-150 to the general fund.

(4) (a) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is less than the 2018 general fund revenue trigger amount provided for in [section 10(2)], then the state treasurer shall transfer the amount provided for in subsection (4)(b) from the fire suppression account provided for in 76-13-150 to the general fund.

(b) Subject to the transfer limit in subsection (5), the amount of the fund transfer provided for in subsection (4)(a) is equal to:

(i) the 2018 general fund revenue trigger amount provided for in [section 10(2)] minus the amount of certified unaudited state general fund revenue and transfers into the general fund at the end of fiscal year 2018; minus

(ii) the amount of any transfers from the fire suppression account to the general fund during fiscal year 2017 under the provisions of subsections (1) through (3).

(5) The total amount of fund transfers under this section may not exceed \$30 million.

Section 8. Legislative intent. (1) The legislature acknowledges that it is likely that the executive will need to issue notes in anticipation of revenue pursuant to 17-1-201 during the biennium beginning July 1, 2017, in order to provide the state general fund with sufficient cash resources to meet its obligations.

(2) (a) The legislature directs the staff of the legislative fiscal division and the office of budget and program planning to study, analyze, and make recommendations regarding the budget stabilization policies to the legislative finance committee by May 1, 2018. The study should address:

(i) trigger levels in 17-7-140;

(ii) legislative and executive access to the budget stabilization reserve fund;

(iii) deposit rules into the budget stabilization reserve fund; and

(iv) the level of operating reserve.

(b) The legislative fiscal division and the office of budget and program planning shall work jointly toward development of a set of best practices for the fund by September 1, 2018.

Section 9. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [section 1].

Section 10. State treasurer notification for budget reductions and fund transfers. (1) For the purpose of implementing [sections 7 and 11 through 32], the state treasurer shall notify the budget director, the legislative fiscal analyst, and the code commissioner on or before August 15, 2017, if the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is:

- (a) equal to or greater than \$2,216,000,000;
- (b) less than \$2,216,000,000 but greater than or equal to \$2,204,000,000 (level 1 budget reduction);
- (c) less than \$2,210,000,000 but greater than or equal to \$2,204,000,000 (level 1.5 budget reduction);
- (d) less than \$2,204,000,000 but greater than or equal to \$2,192,000,000 (level 2 budget reduction);
- (e) less than \$2,192,000,000 but greater than or equal to \$2,180,000,000 (level 3 budget reduction); or
- (f) less than \$2,180,000,000 (level 4 budget reduction).

(2) (a) For the purpose of implementing [sections 7 and 11 through 32], the state treasurer shall notify the budget director, the legislative fiscal analyst, and the code commissioner on or before August 15, 2018, if the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is less than the 2018 general fund revenue trigger amount provided for in subsection (2)(b).

(b) The 2018 general fund revenue trigger amount provided for in subsection (2)(a) is calculated based on the certification by the state treasurer in subsection (1) for fiscal year 2017. If the unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is:

(i) equal to or greater than \$2,216,000,000, as provided in subsection (1)(a), then the 2018 general fund revenue trigger amount is \$2,372,000,000;

(ii) less than \$2,216,000,000 but greater than or equal to \$2,204,000,000, as provided in subsection (1)(b), then the 2018 general fund revenue trigger amount is:

(A) \$2,372,000,000; minus

(B) the amount of the fire suppression account transfer to the general fund under [section 7(1)], not to exceed \$12 million;

(iii) less than \$2,204,000,000 but greater than or equal to \$2,192,000,000, as provided in subsection (1)(d), then the 2018 general fund revenue trigger amount is \$2,348,000,000; or

(iv) less than \$2,192,000,000, as provided in subsection (1)(e) and (1)(f), then the 2018 general fund revenue trigger amount is \$2,336,000,000.

(3) For the purposes [sections 12 through 32], the following definitions apply:

(a) "Level 2 or below" means a calculation that results in a 2018 general fund revenue trigger amount that is less than or equal to \$2,348,000,000.

(b) "Level 3 or below" means a calculation that results in a 2018 general fund revenue trigger amount that is less than or equal to \$2,336,000,000.

(c) "Level 4 or below" means a calculation that results in a 2018 general fund revenue trigger amount that is less than or equal to \$2,336,000,000.

(4) For the purpose of [sections 7 and 11 through 32] and this section:

(a) general fund collections are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102 and include transfers into the general fund; and

(b) transfers from the fire suppression account to the general fund under [section 7] are not considered general fund revenue.

Section 11. Coordination instruction – level 1.5 budget reduction – House Bill No. 17. (1) If House Bill No. 17 is passed and approved, then [section 2 of House Bill No. 17] must be amended as follows:

“**Section 2. Effective date.** [This act] is effective ~~July 1, August 15, 2017.~~”

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,210,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 17 is passed and approved, then [section 1 of House Bill No. 17] must be amended as follows:

“**Section 1. Appropriation void – report.** (1) (a) ~~The following amounts are appropriated to the department of public health and human services to increase the number of basic and adult residential service slots under the home and community-based medicaid services waiver administered by the senior and long-term care division for elderly and physically disabled individuals:~~

Fiscal year 2018 — \$1,083,686 federal special revenue

— \$585,064 general fund

Fiscal year 2019 — \$2,528,601 federal special revenue

— \$1,365,149 general fund

(b) ~~The department of public health and human services shall increase~~ *may consider increasing* the number of basic and adult residential services slots by 200 slots over the biennium *beginning July 1, 2019*, phasing in 50 slots every 6 months of the biennium *beginning July 1, 2019*.

(2)(b) (a) ~~The following amounts are appropriated to the~~ *The department of public health and human services to increase may consider increasing* the reimbursement rate for adult residential service slots in the home and community-based services waiver administered by the senior and long-term care division for elderly and physically disabled individuals:

Fiscal year 2018 — \$2,185,989 federal special revenue

— \$1,180,178 general fund

Fiscal year 2019 — \$3,990,608 federal special revenue

— \$2,154,461 general fund

(b) ~~The appropriation provided for in this subsection (2) must be used to:~~

(i) ~~If an increase is considered,~~ the base daily reimbursement rate for:

(i) 85% of the adult residential slots *may be increased by up to \$5.80* starting July 1, ~~2017 2019~~, and then every 6 months thereafter of the ~~2019 2021~~ biennium; and

(ii) ~~increase the base daily reimbursement rate for~~ up to 15% of the adult residential slots *may be increased by up to \$44.90* effective July 1, ~~2017 2019~~, to pay for memory care for individuals with Alzheimer's disease or other dementias.

(3)(2) The department shall report to the children, families, health, and human services interim committee by September 15, ~~2018 2020~~, and to the ~~66th 67th~~ legislature, as provided in 5-11-210, ~~on the any decisions to increase waiver slots and enhance reimbursement rates and the effectiveness of the increased waiver slots and enhanced reimbursement rates. The~~ *If a decision was made to increase waiver slots and enhance reimbursement rates, the report must include information on:*

(a) the use of the new waiver slots;

(b) whether the increased reimbursement rates led to an increase in the number of providers accepting medicaid clients;

(c) whether the percentage of slots designated for memory care was adequate to address the need for that care; and

(d) whether fewer patients with Alzheimer's disease or other dementias were admitted to state facilities, including the Montana state hospital and the Montana mental health nursing care center. If fewer patients were admitted to state facilities, the department must estimate the amount of money saved by placing fewer individuals with Alzheimer's disease or other dementias in the facilities.

(4) ~~The legislature intends that the appropriations in this section be considered a part of the ongoing base for the next legislative session."~~

Section 12. Coordination instruction – level 2 budget reduction – across-the-board reduction in general fund appropriations. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,204,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved [section 11 of House Bill No. 2] must be amended as follows:

"Section 11. Appropriations – reduced appropriations for certain fiscal year 2018 and 2019 general fund appropriations. ~~The~~ (1) *All general fund appropriations in this section for fiscal years 2018 and 2019, excluding the appropriations for K-12 BASE Aid, Reimbursement Block Grants, State Tuition Payments, Transportation, Natural Resource Development K-12 School Facilities Payment, and the Coal-Fired Generating Unit Closure Mitigation Block Grant are reduced by 0.5%.*

(2) *Subject to subsection (1), the following money is appropriated for the respective fiscal years:"*

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 2 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then if House Bill No. 2 is passed and approved [section 11 of House Bill No. 2] must be amended as follows:

"Section 11. Appropriations – reduced appropriations for certain fiscal year 2019 general fund appropriations. ~~The~~ (1) *All general fund appropriations in this section for fiscal year 2019, excluding the appropriations for K-12 BASE Aid, Reimbursement Block Grants, State Tuition Payments, Transportation, Natural Resource Development K-12 School Facilities Payment, Special Education, and the Coal-Fired Generating Unit Closure Mitigation Block Grant are reduced by 0.5%.*

(2) *Subject to subsection (1), the following money is appropriated for the respective fiscal years:"*

Section 13. Coordination instruction – level 2 budget reduction – reduction in state fund claims administration. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,204,000,000, as determined by the state treasurer on or before August 15, 2017, then 39-71-2352 must be amended as follows:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 – spending limit – authorizing transfer of money. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than ~~\$1.25 million~~ \$625,000 a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, "adequately funded" means the present value of:

(a) the total cost of future benefits remaining to be paid; and

(b) the cost of administering the claims.

(5) An amount of funds in excess of the adequate funding amount established in subsection (4), based on audited financial statements adjusted for unrealized gains and losses, must be transferred to the general fund.

(6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided for in 39-71-2321.

(7) The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year until all claims are paid."

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 2 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then 39-71-2352 must be amended as follows:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 – spending limit – authorizing transfer of money. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than ~~\$1.25 million~~ \$625,000 a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, “adequately funded” means the present value of:

- (a) the total cost of future benefits remaining to be paid; and
- (b) the cost of administering the claims.

(5) An amount of funds in excess of the adequate funding amount established in subsection (4), based on audited financial statements adjusted for unrealized gains and losses, must be transferred to the general fund.

(6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided for in 39-71-2321.

(7) The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year until all claims are paid.”

Section 14. Coordination instruction – level 2 budget reduction – HELP Act third-party administrator. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,204,000,000, as determined by the state treasurer on or before August 15, 2017, then notwithstanding 53-6-1305, for the biennium beginning July 1, 2017, the department of public health and humans services:

(a) may not enter into a new contract with one or more insurance companies or third-party administrators to assist in administering the Montana Health and Economic Livelihood Partnership (HELP) Act provided for in 53-6-1301; and

(b) must terminate any existing contract with an insurance company or third-party administrator related to the Montana Health and Economic Livelihood Partnership (HELP) Act.

(2) It is the intent of the legislature that the department of public health and human services refrain from contracting with one or more insurance companies or third-party administrators in administering the Montana Health and Economic Livelihood Partnership (HELP) Act until a determination is made by the state treasurer that revenue for fiscal year 2017 is equal to or greater than \$2,204,000,000.

(3) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 2 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the provisions of subsection (1) apply to fiscal year 2019.

Section 15. Coordination instruction – level 3 budget reduction – reduction in appropriation – governor’s office. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the governor’s office general fund appropriation for “Mental Disabilities Board of Visitors” in House Bill No. 2 is reduced by \$90,000 in fiscal year 2018 and \$90,000 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for

fiscal year 2017 were high enough to prevent implementation of subsection (1), then the governor's office general fund appropriation for "Mental Disabilities Board of Visitors" in House Bill No. 2 is reduced by \$90,000 in fiscal year 2019.

(3) The governor's office may allocate the appropriation reductions in subsections (1) and (2) among programs when developing 2019 biennium operating plans.

(4) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

Section 16. Coordination instruction – level 3 budget reduction – reduction in appropriation – legislative branch. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the legislative branch general fund appropriation for "Legislative Services" in House Bill No. 2 is reduced by \$133,883 in fiscal year 2018 and \$133,851 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the legislative branch general fund appropriation for "Legislative Services" in House Bill No. 2 is reduced by \$133,851 in fiscal year 2019.

(3) The legislative branch may allocate the appropriation reductions in subsections (1) and (2) among programs when developing 2019 biennium operating plans.

(4) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

Section 17. Coordination instruction – level 3 budget reduction – reduction in appropriation – Montana state library commission. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the Montana state library commission general fund appropriation for "Statewide Library Resources" in House Bill No. 2 is reduced by \$666,527 in fiscal year 2018 and \$669,513 in fiscal year 2019 and the following language is inserted under "MONTANA STATE LIBRARY COMMISSION":

"Statewide Library Resources is appropriated up to \$666,527 of propriety funding in fiscal year 2018 and \$669,513 of propriety funding in fiscal year 2019 to offset the general fund appropriation reduction in Senate Bill No. 261."

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the Montana state library commission general fund appropriation for "Statewide Library Resources" in House Bill No. 2 is reduced by \$669,513 in fiscal year 2019 and the following language is inserted under "MONTANA STATE LIBRARY COMMISSION":

"Statewide Library Resources is appropriated up to \$669,513 of propriety funding in fiscal year 2019 to offset the general fund appropriation reduction in Senate Bill No. 261."

(3) The legislature intends that the appropriation reduction in subsections (1) and (2) be used to reduce general fund appropriations in support of the Montana digital library program by 50%.

(4) The Montana state library commission may allocate the appropriation reductions in subsections (1) and (2) among programs when developing 2019 biennium operating plans.

(5) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

Section 18. Coordination instruction – level 3 budget reduction – reduction in appropriation – Montana historical society – increase in state special revenue fund authority. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the Montana historical society general fund appropriation for “Research Center” in House Bill No. 2 is reduced by \$608,710 in fiscal year 2018 and \$609,786 in fiscal year 2019 and the following language is inserted under “MONTANA HISTORICAL SOCIETY”:

“Research Center is appropriated up to \$608,710 of propriety funding in fiscal year 2018 and \$609,786 of propriety funding in fiscal year 2019 to offset the general fund appropriation reduction in Senate Bill No. 261.”

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the Montana historical society general fund appropriation for “Research Center” in House Bill No. 2 is reduced by \$609,786 in fiscal year 2019 and the following language is inserted under “MONTANA HISTORICAL SOCIETY”:

“Research Center is appropriated up to \$609,786 of propriety funding in fiscal year 2019 to offset the general fund appropriation reduction in Senate Bill No. 261.”

(3) The legislature intends that the appropriation reduction in subsections (1) and (2) be used to reduce general fund appropriations in support of the research center program by 50%.

(4) The Montana historical society may allocate the appropriation reductions in subsections (1) and (2) among programs when developing 2019 biennium operating plans.

(5) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

(6) If House Bill No. 2 is passed and approved, then the Montana historical society state special revenue fund appropriation for “Museum Program” in House Bill No. 2 is increased by \$97,115 in fiscal year 2018 and \$91,695 in fiscal year 2019. The increase in this subsection (6) is not contingent on revenue projections.

Section 19. Coordination instruction – level 3 budget reduction – fund transfer from lodging facility use tax account. (1) (a) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, then notwithstanding 15-65-121(5), the state treasurer shall transfer the amount provided for in subsection (1)(b) from the state special revenue account

provided for in 15-65-121(5) to the general fund during the biennium beginning July 1, 2017. The distributions under 15-65-121(2)(d) must be reduced by the amount that is transferred to the general fund.

(b) The amount of the fund transfer provided for in subsection (1)(a) is equal to 8.1% of the 64.9% that is distributed during the biennium beginning July 1, 2017, under 15-65-121(2)(d). The state treasurer may deposit the amount to the credit of the state general fund periodically during the biennium at the same time as the other distributions, as long as the total amount of the distribution at the end of each fiscal year is equal to 8.1% of the 64.9% of the tax proceeds distributed under 15-65-121(2)(d).

(2) (a) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then notwithstanding 15-65-121(5), the state treasurer shall transfer the amount provided for in subsection (2)(b) from the state special revenue account provided for in 15-65-121(5) to the general fund during the fiscal year beginning July 1, 2018. The distributions under 15-65-121(2)(d) must be reduced by the amount that is transferred to the general fund.

(b) The amount of the fund transfer provided for in subsection (2)(a) is equal to 8.1% of the 64.9% that is distributed during the fiscal year beginning July 1, 2018, under 15-65-121(2)(d). The state treasurer may deposit the amount to the credit of the state general fund periodically during fiscal year 2019 at the same time as the other distributions, as long as the total amount of the distribution at the end of fiscal year 2019 is equal to 8.1% of the 64.9% of the tax proceeds distributed under 15-65-121(2)(d).

Section 20. Coordination instruction – level 3 budget reduction – reduction in appropriation – department of agriculture. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the department of agriculture general fund appropriation for “Agricultural Development Division” in House Bill No. 2 is reduced by \$128,244 in fiscal year 2018 and \$128,383 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the department of agriculture general fund appropriation for “Agricultural Development Division” in House Bill No. 2 is reduced by \$128,383 in fiscal year 2019.

(3) The legislature intends that the appropriation reduction in subsections (1) and (2) be used to reduce House Bill No. 2 general fund appropriations in support of the agricultural marketing program by 50%.

(4) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

Section 21. Coordination instruction – level 3 budget reduction – reduction in appropriation – department of public health and human services. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the

department of public health and human services general fund appropriation for “Health Resources Division” in House Bill No. 2 is reduced by \$3,500,000 in fiscal year 2018 and \$3,500,000 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the department of public health and human services general fund appropriation for “Health Resources Division” in House Bill No. 2 is reduced by \$3,500,000 in fiscal year 2019.

(3) The legislature intends that the appropriation reduction in subsections (1) and (2) be used to reduce medicaid provider rates over the 2019 biennium. For the purpose of this subsection (3), the rate reduction must be calculated to provide for percentage based equivalency between all single providers and provider types to ensure that all single provider or provider types are subject to the same reduction percentage.

(4) The appropriation reductions in subsections (1) and (2) are in addition to the across-the-board reduction in general fund appropriations in [section 12].

Section 22. Coordination instruction – level 3 budget reduction – mental health targeted case management services. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,192,000,000, as determined by the state treasurer on or before August 15, 2017, then for the biennium beginning July 1, 2017, the department of public health and human services general fund appropriation in House Bill No. 2 for the:

(a) “Addictive and Mental Disorder Division” is reduced by \$965,000 in fiscal year 2018 and \$965,000 in fiscal year 2019; and

(b) “Developmental Services Division” is reduced by \$965,000 in fiscal year 2018 and \$965,000 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 3 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then the department of public health and human services general fund appropriation in House Bill No. 2 for the:

(a) “Addictive and Mental Disorder Division” is reduced by \$965,000 in fiscal year 2019; and

(b) “Developmental Services Division” is reduced by \$965,000 in fiscal year 2019.

(3) The department of public health and human services shall reduce reimbursements for targeted case management services for adult and children’s mental health by the amount of the reductions in subsections (1) and (2).

(4) The department of public health and human services may allocate the appropriation reductions in subsections (1) and (2) among the addictive and mental disorder division and the developmental services division when developing 2019 biennium operating plans.

Section 23. Coordination instruction – level 4 – broadband pay plan – appropriation void. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, and if Senate Bill No. 294 is passed and approved, then the general fund appropriations in [section 12 of Senate Bill No. 294] for:

(a) fiscal year 2018 for “Legislative Branch”, “Judicial Branch”, “Executive Branch”, and “Montana University System” are void; and

(b) fiscal year 2019 for “Legislative Branch” is reduced from \$124,184 to \$35,180, “Judicial Branch” is reduced from \$297,576 to \$84,299, “Executive Branch” is reduced from \$3,756,611 to \$1,064,196, and “Montana University System” is reduced from \$3,493,577 to \$1,142,646.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 4 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), and if Senate Bill No. 294 is passed and approved, then the general fund appropriations in [section 12 of Senate Bill No. 294] for fiscal year 2019 for “Legislative Branch” is reduced from \$124,184 to \$35,180, “Judicial Branch” is reduced from \$297,576 to \$84,299, “Executive Branch” is reduced from \$3,756,611 to \$1,064,196, and “Montana University System” is reduced from \$3,493,577 to \$1,142,646.

Section 24. Coordination instruction – level 4 budget reduction – secondary vo-ed. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the office of superintendent of public instruction general fund appropriation for “Secondary Vo-ed” in House Bill No. 2 must be reduced by \$500,000 in fiscal year 2018 and by \$500,000 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 4 or below as provided in [section 10(3)], and if House Bill No. 2 is passed and approved, then the office of superintendent of public instruction general fund appropriation for “Secondary Vo-ed” in House Bill No. 2 must be reduced by \$500,000 in fiscal year 2019.

Section 25. Coordination instruction – level 4 budget reduction – data-for-achievement payment. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, then:

(a) notwithstanding 20-9-306, 20-9-308, 20-9-325, 20-9-326, 20-9-344, and 20-9-366, the office of public instruction shall suspend payment of the data-for-achievement payment for fiscal year 2018 and fiscal year 2019 and reduce BASE aid payments to school districts accordingly; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for “K-12 BASE Aid” in House Bill No. 2 must be reduced by \$3,109,347 in fiscal year 2018 and by \$3,180,038 in fiscal year 2019 for the purpose of suspending the data-for-achievement payment.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 4 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then:

(a) notwithstanding 20-9-306, 20-9-308, 20-9-325, 20-9-326, 20-9-344, and 20-9-366, the office of public instruction shall suspend payment of the data-for-achievement payment for fiscal year 2019 and reduce BASE aid payments to school districts accordingly; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for “K-12 BASE Aid” in House Bill No. 2 must be reduced by \$3,180,038 in fiscal year 2019 for the purpose of suspending the data-for-achievement payment.

Section 26. Coordination instruction – level 4 budget reduction – combined fund block grants. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, then:

(a) notwithstanding 20-9-630, the office of public instruction shall reduce the amount of the school district combined fund block grants by 47.68% for both fiscal year 2018 and fiscal year 2019; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for “Reimbursement Block Grants” in House Bill No. 2 must be reduced by \$2,800,000 in fiscal year 2018 and by \$2,800,000 in fiscal year 2019 for the purpose of reducing school district combined fund block grants.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 4 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then:

(a) notwithstanding 20-9-630, the office of public instruction shall reduce the amount of the school district combined fund block grants by 47.68% for fiscal year 2019; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for “Reimbursement Block Grants” in House Bill No. 2 must be reduced by \$2,800,000 in fiscal year 2019 for the purpose of reducing school district combined fund block grants.

Section 27. Coordination instruction – level 4 budget reduction – natural resource development payment. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, then:

(a) if House Bill No. 647 is passed and approved, [section 18(2) of House Bill No. 647] must be amended as follows:

“(2) Beginning in fiscal year ~~2019~~ 2020, the superintendent of public instruction shall annually deposit no later than March 31 in the school facility and technology account provided for in 20-9-516 the natural resource development K-12 school facilities payment, which is calculated as the greater of:

(a) ~~\$5.8 million in fiscal year 2019~~, \$6.4 million in fiscal year 2020, \$7.6 million in fiscal year 2021, and \$10 million in fiscal year 2022, increased by an inflationary adjustment calculated as provided in 20-9-326 in each succeeding fiscal year; or

(b) 5% of the oil and natural gas production taxes deposited in the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the fiscal year of the payment.”; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for the “Natural Resource Development K-12 School Facilities Payment” in House Bill No. 2 for 2019 must be eliminated.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level

4 or below as provided in [section 10(3)], and if prior general fund collections for fiscal year 2017 were high enough to prevent implementation of subsection (1), then:

(a) if House Bill No. 647 is passed and approved, [section 18(2) of House Bill No. 647] must be amended as follows:

“(2) Beginning in fiscal year ~~2019~~ 2020, the superintendent of public instruction shall annually deposit no later than March 31 in the school facility and technology account provided for in 20-9-516 the natural resource development K-12 school facilities payment, which is calculated as the greater of:

(a) ~~\$5.8 million in fiscal year 2019~~, \$6.4 million in fiscal year 2020, \$7.6 million in fiscal year 2021, and \$10 million in fiscal year 2022, increased by an inflationary adjustment calculated as provided in 20-9-326 in each succeeding fiscal year; or

(b) 5% of the oil and natural gas production taxes deposited in the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the fiscal year of the payment.”; and

(b) if House Bill No. 2 is passed and approved, the office of superintendent of public instruction general fund appropriation for the “Natural Resource Development K-12 School Facilities Payment” in House Bill No. 2 for 2019 must be eliminated.

Section 28. Coordination instruction – level 4 budget reduction – native language preservation. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,180,000,000, as determined by the state treasurer on or before August 15, 2017, and if House Bill No. 2 is passed and approved, then the department of commerce general fund appropriation for “Native Language Preservation” in House Bill No. 2 must be reduced by \$125,000 in fiscal year 2018 and by \$125,000 in fiscal year 2019.

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2018 is at level 4 or below as provided in [section 10(3)], and if House Bill No. 2 is passed and approved, then the department of commerce general fund appropriation for “Native Language Preservation” in House Bill No. 2 must be reduced by \$125,000 in fiscal year 2019.

Section 29. Coordination instruction – Senate Bill No. 281 and fire suppression account. (1) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is equal to or greater than \$2,209,000,000, as determined by the state treasurer on or before August 15, 2017, and Senate Bill No. 281 and [this act] are passed and approved, and both contain a section that amends 76-13-150, then the sections amending 76-13-150 are void and 76-13-150 must be amended as follows:

“76-13-150. Fire suppression account – fund transfer. (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for: ~~the purpose of paying expenses for fire prevention, including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment for county cooperatives, and~~

- (a) fire suppression costs;
- (b) *fuel reduction and mitigation*;
- (c) *forest restoration*;
- (d) *grants for the purchase of fire suppression equipment for county cooperatives*;
- (e) *forest management projects on federal land*;
- (f) *support for collaborative groups that include at least one representative of an affected county commission that is engaged with a federal forest project and for local governments engaged in litigation related to federal forest projects*; and

(g) *road maintenance on federal lands*.-

(5) Interest earned on the balance of the account is retained in the account.

(6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

(8) The fund balance in the account may not exceed ~~\$100 million~~ 4% of all general fund appropriations in the second year of the biennium.

(9) ~~Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration~~ By August 15 of each even-numbered fiscal year, if the balance in the account at the end of the most recently completed odd-numbered fiscal year exceeds \$40 million, the excess, up to \$5 million, must be used in the biennium for the purposes in subsections (4)(b) through (4)(g). Of that amount, no more than 5% may be used for the purposes of subsection (4)(f).

(10) For the fiscal year ending June 30, 2017, the state treasurer may not transfer from the general fund to the fire suppression account.

~~(10)~~(11) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4)."

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,209,000,000, as determined by the state treasurer on or before August 15, 2017, and Senate Bill No. 281 and [this act] are passed and approved, and both contain a section that amends 76-13-150, then the sections amending 76-13-150 are void and 76-13-150 must be amended as follows:

"76-13-150. Fire suppression account – fund transfer. (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for: ~~the purpose of paying expenses for fire prevention, including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment for county cooperatives, and~~

- (a) fire suppression costs;

(b) *fuel reduction and mitigation;*
(c) *forest restoration;*
(d) *grants for the purchase of fire suppression equipment for county cooperatives;*
(e) *forest management projects on federal land;*
(f) *support for collaborative groups that include at least one representative of an affected county commission that is engaged with a federal forest project and for local governments engaged in litigation related to federal forest projects; and*

(g) *road maintenance on federal lands.-*

(5) Interest earned on the balance of the account is retained in the account.

(6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

(8) The fund balance in the account may not exceed ~~\$100 million~~ 4% of all general fund appropriations in the second year of the biennium.

(9) ~~Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration~~ *Beginning on July 1, 2019, by August 15 of each even-numbered fiscal year, if the balance in the account at the end of the most recently completed odd-numbered fiscal year exceeds \$40 million, the excess, up to \$5 million, must be used in the biennium for the purposes in subsections (4)(b) through (4)(g). Of that amount, no more than 5% may be used for the purposes of subsection (4)(f).*

(10) *For the fiscal year ending June 30, 2017, the state treasurer may not transfer from the general fund to the fire suppression account.*

~~(10)~~(11) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4)."

Section 30. Coordination instruction – fire suppression account – effective July 1, 2019. If Senate Bill No. 281 and [this act] are passed and approved, and both contain a section that amends 76-13-150, then the sections amending 76-13-150 are void and 76-13-150 must be amended as follows:

"76-13-150. Fire suppression account – fund transfer. (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for: ~~the purpose of paying expenses for fire prevention, including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment for county cooperatives, and~~

- (a) *fire suppression costs;*
- (b) *fuel reduction and mitigation;*
- (c) *forest restoration;*

(d) *grants for the purchase of fire suppression equipment for county cooperatives;*

(e) *forest management projects on federal land;*

(f) *support for collaborative groups that include at least one representative of an affected county commission that is engaged with a federal forest project and for local governments engaged in litigation related to federal forest projects; and*

(g) *road maintenance on federal lands.;*

(5) Interest earned on the balance of the account is retained in the account.

(6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

(8) The fund balance in the account may not exceed ~~\$100 million~~ 4% of all general fund appropriations in the second year of the biennium.

(9) ~~Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration~~ By August 15 of each even-numbered fiscal year, if the balance in the account at the end of the most recently completed odd-numbered fiscal year exceeds \$40 million, the excess, up to \$5 million, must be used in the biennium for the purposes in subsections (4)(b) through (4)(g). Of that amount, no more than 5% may be used for the purposes of subsection (4)(f).

(10) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4)."

Section 31. Coordination instruction – House Bill No. 638. (1) If House Bill No. 638 is passed and approved, then:

(a) [section 9 of House Bill No. 638] must be amended as follows:

"Section 9. Effective date *dates – contingency.* [This act] (1) *Except as provided in subsection (2), [this act] is effective July 1 August 15, 2017.*

(2) [Sections 2 through 8] are effective only if on:

(a) *August 15, 2017, the state treasurer certifies that unaudited general fund revenue and transfers into the general fund received at the end of fiscal year 2017 are equal to or greater than \$2,220,000,000; or*

(b) *August 15, 2018, the state treasurer certifies that unaudited general fund revenue and transfers into the general fund received at the end of fiscal year 2018 are equal to or greater than \$2,375,000,000."*

(2) If the amount of the certified unaudited state general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than \$2,220,000,000, as determined by the state treasurer on or before August 15, 2017, then:

(a) [section 1 of House Bill No. 638] must be amended as follows:

"Section 1. Appropriation for direct care worker wages. (1) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, ~~2017~~ 2018, for a rate increase for developmental disability services providers to be phased in and used as provided in this section:

Fiscal Year ~~2018~~ 2019 \$5,277,977

federal special revenue

	\$2,789,240	state special revenue fund
Fiscal Year 2019	\$12,326,129	federal special revenue
	\$6,526,928	state special revenue fund

(2) Providers must use the appropriation to increase wages only for workers who:

- (a) provide direct care;
- (b) are employed in community services established pursuant to 53-20-205; and
- (c) are not state employees.

(3) Except as provided in subsection (4), the department shall phase in the appropriation ~~on July 1 and January 1 of each year of the biennium~~ in a manner that provides the equivalent of an increase in wages of at least 75 cents an hour per employee.

(4) (a) If the appropriation is insufficient to provide the equivalent of a biannual increase of 75 cents an hour per employee, the department shall provide the maximum provider rate increase possible from the appropriation.

(b) If the appropriation allows for the equivalent of ~~a biannual~~ *an* increase of more than 75 cents an hour per employee, the department shall use the full amount of the appropriation to provide the greater increase.

(5) The appropriation in this section is intended to increase medicaid services and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates. The appropriation in this section may not be used to provide wages to program managers, administrative staff, management staff, schedulers, nurse supervisors, licensed practical nurses, registered nurses, or case managers.

(6) The legislature intends that the appropriation in this section be considered a part of the ongoing base for the next legislative session.”;

(b) [section 2 of House Bill No. 638] must be amended as follows:

“Section 2. Appropriation for direct care worker wages. (1) The following amounts are appropriated to the department of public health and human services for the ~~biennium~~ *fiscal year* beginning July 1, ~~2017~~ *2018*, for a rate increase for home and community-based services waiver direct care workers and for community services personal care assistants to be administered by the senior and long-term care division for elderly and physically disabled individuals, to be phased in and used as provided in this section:

Fiscal Year 2018 <i>2019</i>	\$808,268	federal special revenue
	\$427,144	state special revenue fund
Fiscal Year 2019	\$1,211,568	federal special revenue
	\$641,549	state special revenue fund

(2) Providers may use the appropriation to increase wages only for workers who:

- (a) provide direct care;
 - (b) are employed in community services; and
 - (c) are not state employees.
- (3) The department shall use the appropriation ~~starting on:~~
- (a) ~~July 1, 2017~~, to increase wages by at least \$1.50 an hour per employee; and
 - (b) ~~July 1, 2018~~, to increase wages by at least \$2.25 an hour per employee.

(4) The appropriation in this section is intended to increase medicaid services and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates. The appropriation in this section may not be used to provide wages to program managers, administrative staff, management staff, schedulers, nurse supervisors, licensed practical nurses, registered nurses, or case managers.

(5) The legislature intends that the appropriation in this section be considered a part of the ongoing base for the next legislative session.”; and

(c) [section 5 of House Bill No. 638] must be amended as follows:

“Section 5. Transfer of funds to direct care worker wage account.

By ~~July 1, 2017~~ *August 15, 2018*, the state treasurer shall transfer \$~~1,068,693~~ *\$427,144* from the older Montanans trust fund, provided for in 52-3-115, to the direct care worker wage account provided in [section 3] for the ~~biennium beginning fiscal year beginning July 1, 2017~~ *2018*.”

Section 32. Coordination instruction – House Bill No. 261. (1) If House Bill No. 261 is passed and approved, then [section 2 of House Bill No. 261] must be amended as follows:

“Section 2. Contingent voidness. ~~(1)~~ If the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2017 are less than \$~~2,213,000,000~~ *\$2,217,000,000, as determined by the state treasurer on or before August 15, 2017*, the statutory ~~appropriation appropriations~~ in 22-1-327 for fiscal ~~year years~~ *2018 is and 2019 are* void.

~~(2) If the certified unaudited general fund revenue and transfers into the general fund received in fiscal year 2018 are less than \$2,360,000,000, the statutory appropriation in 22-1-327 for fiscal year 2019 is void.”~~

(2) The state treasurer shall notify the budget director, the legislative fiscal analyst, and the code commissioner on or before August 15, 2017, regarding whether amount of the certified general fund revenue and transfers into the general fund received at the end of fiscal year 2017 is less than the amount provided in [section 2 of House Bill No. 261], as amended by subsection (1).

Section 33. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 34. Effective date. (1) Except as provided in subsections (2) and (3), [this act] is effective July 1, 2017.

(2) [Section 30] is effective July 1, 2019.

(3) [Sections 32 and 33] and this section are effective on passage and approval.

Section 35. Termination. [Sections 13, 27, and 29] terminate June 30, 2019.

Approved May 22, 2017

CHAPTER NO. 430

[SB 294]

ANACTGENERALLYREVISINGLAWSRELATEDTOSTATEGOVERNMENT
PAY PLANS; REQUIRING AN EMPLOYEE'S COMPENSATION TO FALL
WITHIN THE OCCUPATIONAL WAGE RANGE OF AN EMPLOYEE'S
OCCUPATION; PROVIDING DEFINITIONS RELATED TO COMPENSATION;
REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO
REVIEW AND APPROVE PAY INCREASES ABOVE AN EMPLOYEE'S
OCCUPATIONAL WAGE RANGE; APPROPRIATING FUNDS TO
IMPLEMENT PAY REVISIONS; PROVIDING FOR TRANSFERS; ALLOWING
IMPLEMENTATION OF A PAY PLAN TO BE A NEGOTIABLE TERM
FOR A COLLECTIVE BARGAINING UNIT; PROVIDING RULEMAKING
AUTHORITY; AMENDING SECTIONS 2-18-101, 2-18-102, 2-18-203, 2-18-301,

2-18-303, 2-18-1011, 2-18-1107, 2-18-1204, 10-4-301, 13-37-106, AND 15-2-102, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-101, MCA, is amended to read:

“2-18-101. Definitions. As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) “Agency” means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) “Base salary” means the amount of compensation paid to an employee, excluding:

(a) state contributions to group benefits provided in 2-18-703;

(b) overtime;

(c) fringe benefits as defined in 39-2-903; and

(d) the longevity allowance provided in 2-18-304.

(3) “Benchmark” means a representative position in a specific occupation that is used to illustrate the application of the job evaluation factor used to ~~determine the pay band for an~~ *classify the* occupation.

(4) “Blue collar pay plan” means a strictly negotiated classification and pay plan consisting of unskilled or skilled labor, trades, and crafts occupations.

~~(4)(5)~~ “Board” means the board of personnel appeals established in 2-15-1705.

~~(5)(6)~~ “Broadband classification plan” means a job evaluation method that measures the difficulty of the work and the knowledge or skills required to perform the work.

~~(6)(7)~~ “Broadband pay plan” means a pay plan using a pay hierarchy of ~~broad pay bands and of broad pay bands~~ based on the broadband a classification plan, *including market midpoint and occupational wage ranges.*

~~(7)(8)~~ “Compensation” means the annual or hourly wage or salary and includes the state contribution to group benefits under the provisions of 2-18-703.

~~(8)(9)~~ “Competencies” means sets of measurable and observable knowledge, skills, and behaviors that contribute to success in a position.

~~(9)~~ “Competitive pay zone” means that portion of the pay range for a band level of an occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation.

(10) “Department” means the department of administration created in 2-15-1001.

(11) (a) Except in 2-18-306, “employee” means any state employee other than an employee excepted under 2-18-103 or 2-18-104.

(b) The term does not include a student intern.

~~(12)(12)~~ “Job evaluation factor” means a measure of the complexities of the predominant duties of a position.

~~(13)(13)~~ “Job sharing” means the sharing by two or more persons of a position.

~~(14)(14)~~ “Market salary” “Market midpoint” means the median base salary that other employers pay to employees in comparable occupations as determined by the department’s salary survey of the relevant labor market.

~~(15)(15)~~ “Occupation” means a generalized family of positions having substantially similar duties and requiring similar qualifications, education, and experience.

~~(16)~~ “Pay band” means a wide salary range covering a number of different occupations.

(16) "Pay band" means a wide salary range covering a number of different occupations. Pay bands are used for reporting and analysis purposes only.

(17) "Occupational wage range" means a range of pay, including a minimum, market midpoint, and maximum salary, for a specific occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation. The salary for an employee may be less than the minimum salary.

(18) "Pay progression" means a process by which an employee's compensation may be increased, based on documented factors determined by the department, to bring the employee's compensation to a higher rate within the occupational wage range of the employee.

(17)(19) "Permanent employee" means an employee who is designated by an agency as permanent and who has attained or is eligible to attain permanent status.

(18)(20) "Permanent status" means the state an employee attains after satisfactorily completing an appropriate probationary period.

(19)(21) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

(20)(22) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

(21)(23) "Program" means a combination of planned efforts to provide a service.

(22)(24) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

(23)(25) "Short-term worker" means a person who:

(a) is hired by an agency for an hourly wage established by the agency;
(b) may not work for the agency for more than 90 days in a continuous 12-month period;

(c) is not eligible for permanent status;

(d) may not be hired into another position by the agency without a competitive selection process; and

(e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter.

(24)(26) "Student intern" means a person who:

(a) has been accepted in or is currently enrolled in an accredited school, college, or university and is hired directly by an agency in a student intern position;

(b) is not eligible for permanent status;

(c) is not eligible to become a permanent employee without a competitive selection process;

(d) must be covered by the hiring agency's workers' compensation insurance;

(e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter; and

(f) may be discharged without cause.

(25)(27) "Telework" means a flexible work arrangement where a designated employee may work from home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace.

(26)(28) "Temporary employee" means an employee who:

- (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- (b) performs temporary duties or permanent duties on a temporary basis;
- (c) is not eligible for permanent status;
- (d) is terminated at the end of the employment period; and
- (e) is not eligible to become a permanent employee without a competitive selection process.”

Section 2. Section 2-18-102, MCA, is amended to read:

“2-18-102. Personnel administration – general policy setting – and oversight. (1) Except as otherwise provided by law or collective bargaining agreement, the department shall:

- (a) ~~encourage and~~ exercise leadership in the development of effective personnel administration within the several agencies in the state and make available the facilities of the department to this end;

- (b) foster and develop programs for recruitment and selection of capable persons for employment and for the improvement of employee effectiveness, including training, ethical conduct, safety, health, counseling, welfare, discipline, grievances, and evaluation for productivity and retention in permanent status;

- (c) foster, develop, and promote job sharing in agencies;

- (d) investigate from time to time the operation and effect of ~~parts 1 and 2~~ *parts 1 through 3* of this chapter and the policies made under those parts and report the findings and recommendations to the governor;

- (e) establish policies, procedures, and forms for the maintenance of records of all employees in the state service;

- (f) apply and carry out ~~parts 1 and 2~~ *parts 1 through 3* and the policies under those parts and perform any other lawful acts that may be necessary or desirable to carry out the purposes and provisions of ~~parts 1 and 2~~ *parts 1 through 3*.

(2) The department may delegate authority granted to it under ~~parts 1 and 2~~ *parts 1 through 3* to agencies in the state service that effectively demonstrate the ability to carry out the provisions of ~~parts 1 and 2~~ *parts 1 through 3*, provided that the agencies remain in compliance with policies, procedures, timetables, and standards established by the department.

(3) The department shall develop and issue personnel policies for the state and shall adopt *policies or* rules to implement this part, except 2-18-111. Adequate public notice must be given to all interested parties of proposed changes or additions to the personnel policies before the date on which they are to take effect. If requested by any of the affected parties, the department shall schedule a public hearing on proposed changes or additions to the personnel policies before the date on which they are to take effect.

(4) The department shall develop model rules of conduct for all state employees based upon the provisions of Title 2, chapter 2. The department shall provide employees with a pamphlet summarizing the provisions of Title 2, chapter 2. Each state agency shall adopt the model rules of conduct and additional rules appropriate to the specific circumstances of the agency.

(5) *Except as otherwise provided by law, the office of budget and program planning shall:*

- (a) approve any salary increase proposed by an agency that exceeds an employee’s occupational wage range prior to the increase going into effect;*

- (b) monitor the way each agency compensates its employees within the parameters of the occupational wage range for each occupation; and*

- (c) provide a report in an electronic format to the legislative finance committee identifying any agency that provides a base salary for an employee*

that exceeds the occupational wage range for the employee's occupation and the reasons for the differences.

(6) The provisions of subsection (5)(a) do not apply to employees of the following agencies:

- (a) the department of justice;*
- (b) the office of public instruction;*
- (c) the public service commission;*
- (d) the secretary of state; and*
- (e) the state auditor's office.*

(7) The agencies listed in subsection (6) shall provide required budget information on personal services, and pay increases above the occupational wage range for these agencies are not required to be included in the executive budget in accordance with Title 17, chapter 7, part 1.

(8) The department of administration shall adopt rules and procedures for job classification.

(9) An agency may not change the classification of an occupation or its related job evaluation factors until the agency submits the proposed changes to and receives approval from the department of administration."

Section 3. Section 2-18-203, MCA, is amended to read:

"2-18-203. Review of positions – change in pay band allocation. (1)

The department shall review the job evaluation factor of positions on a regular basis and may adjust the occupations for the positions to reflect significant changes in duties and responsibilities. If adjustments are to be made to benchmarks or criteria used for allocating classifying positions to pay bands affecting employees within a bargaining unit, the department shall consult with the representative of the bargaining unit prior to implementation of the adjustments, except for positions factored in the blue-collar pay plan, which must remain a mandatory negotiable item under Title 39, chapter 31.

(2) Employees and employee organizations must be given the opportunity to appeal the allocation or reallocation of a position to a pay band. The pay band assigned to an occupation and benchmarks a position classification. Classification standards are not appealable subjects under 2-18-1011 through 2-18-1013.

(3) The period of time for which retroactive pay for a pay band allocation compensation or classification appeal may be awarded under 2-18-1011 through 2-18-1013 or under parts 1 through 3 of this chapter may not extend beyond 30 days prior to the date on which the appeal was filed."

Section 4. Section 2-18-301, MCA, is amended to read:

"2-18-301. Intent of part – rules. (1) It is the intent of the legislature that compensation plans for state employees, excluding those employees excepted under 2-18-103 or 2-18-104, be based, in part, on an analysis of the labor markets as provided by the department in a biennial salary survey. The salary survey must be submitted to the office of budget and program planning as a part of the information required by 17-7-111.

(2) Pay adjustments, if any, provided for in 2-18-303 supersede any other plan or systems established through collective bargaining after the adjournment of the legislature.

(3) Total funds required to implement the pay increases, if any, provided for in 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the legislature.

(4) ~~The~~ When fiscally able, the department shall administer the pay program established by the legislature on the basis of competency, internal equity, and competitiveness to the external labor market ~~when fiscally able,~~

pay progression, and other nondiscriminatory factors, while considering pay relationships within an agency or pay unit.

(5) The broadband pay plan must consist of *nine pay bands including nine pay bands occupational wage ranges based on an occupation and its job evaluation factor.* Each ~~pay band~~ occupational wage range must contain a salary range with a minimum, ~~salary market midpoint~~, and a maximum salary. *The salary for an employee may be less than the minimum salary.*

(6) Based on the biennial salary survey, the department shall:

(a) identify current market ~~rates~~ *midpoints* for all occupations; *and*

(b) establish ~~salary ranges for each pay band~~ *the occupational wage range for each occupation;* ~~and~~

(c) ~~recommend competitive pay zones.~~

(7) The department may promulgate rules not inconsistent with the provisions of this part, collective bargaining statutes, or negotiated contracts to carry out the purposes of this part.

(8) Nothing in this part prohibits the board of regents from engaging in negotiations with the collective bargaining units representing the classified staff of the university system."

Section 5. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for administering broadband pay plan. (1)

On the first day of the first complete pay period in fiscal year ~~2016~~ *2018*, each employee is entitled to the amount of the employee's base salary as it was on June 30, ~~2015~~ *2017*.

~~(2) An employee's base salary may be no less than the minimum salary of the pay band to which the employee's position is allocated.~~

(2) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

~~(3) Effective on the first day of the first complete pay period that includes January 15, 2016 February 15, 2018, the base salary of each employee must be increased by 50 cents an hour 1%. Effective on the first day of the first complete pay period that includes January 15, 2017 February 15, 2019, the base salary of each employee must be increased by 50 cents an hour 1%.~~

(4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection (3) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a collective bargaining agreement.

(ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.

(5) (a) Montana highway patrol officer base salaries must be established through the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol officer positions must then be determined

by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The department of justice shall submit the salary survey to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session."

Section 6. Section 2-18-1011, MCA, is amended to read:

"2-18-1011. ~~Pay band allocation~~ Classification or compensation grievance – retaliation – hearing on complaint. (1) An employee or the employee's representative affected by the implementation of parts 1 through 3 of this chapter is entitled to file a complaint with the board of personnel appeals provided for in 2-15-1705 and to be heard under the provisions of a grievance procedure to be prescribed by the board.

(2) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works or by any other agency of state government against an employee because the employee has filed or attempted to file a complaint with the board is also a basis for a complaint and entitles the employee to file a complaint with the board and to be heard under the provisions of the grievance procedure prescribed by the board.

(3) An action that attempts to revise the determination of ~~a pay band~~ *an employee's classification* and that involves an employee exercising a right conferred by 2-18-1011 through 2-18-1013 in a way that would adversely affect the employee prior to final resolution or entry of a final order with respect to the action is presumed to be interference, restraint, coercion, or retaliation prohibited by subsection (2) unless the review was commenced or scheduled prior to filing of the appeal and was not prompted by the grievance appealed from. The presumption is rebuttable."

Section 7. Section 2-18-1107, MCA, is amended to read:

"2-18-1107. Salary increase based on elimination of position. An agency head, as defined in 2-18-1101, may, with the approval of the approving authority, as defined in 17-7-102, increase the salary for one or more positions in the agency by the amount of the salary for a position that was permanently eliminated by the agency within the last 30 days. However, an increased salary may not exceed the market ~~salary~~ *midpoint* for that position determined under Title 2, chapter 18, part 3. If an eliminated position's salary is redistributed under this section, the agency may not be given an increased appropriation in regard to the eliminated position under 2-15-112(2)(e). An increase for an employee who is in a collective bargaining unit is a negotiable subject under 39-31-305."

Section 8. Section 2-18-1204, MCA, is amended to read:

"2-18-1204. Salary and benefits protection – employee transfer. An employee whose position is eliminated as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to a different position in a state agency is entitled to:

(1) ~~the same hourly salary as previously received if the new position is in the same competitive pay zone~~ *the same classification* or higher as the one previously held;

- (2) retain all accrued sick leave credits;
- (3) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff date; and
- (4) relocation expenses as provided in agency policy."

Section 9. Section 10-4-301, MCA, is amended to read:

"10-4-301. Establishment of emergency telecommunications accounts. (1) There are established in the state special revenue fund in the state treasury:

- (a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a);
- (b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b); and
- (c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1)(c). The money is allocated as follows:
 - (i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and
 - (ii) 50% of the account must be deposited in an account for distribution to wireless providers.

(2) *Money in the account provided for in subsection (1)(c)(ii), including interest earned from the investment of money in the account, is subject to legislative fund transfers.*

(2)(3) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account. An amount equal to 2.74% of the money received pursuant to 10-4-201 must be deposited in an account in the state special revenue fund to be used for the administration of this chapter. Any remaining funds at the end of a fiscal year must be equally distributed to each of the four accounts provided for in subsection (1).

(3)(4) The accounts established in subsection (1) retain interest earned from the investment of money in the accounts.

(4)(5) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(5)(6) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

(6)(7) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

Section 10. Section 13-37-106, MCA, is amended to read:

"13-37-106. Salary. (1) ~~The commissioner of political practices is entitled to receive a salary within the pay band, as defined in 2-18-101, determined by the department of administration as provided in subsection (4):~~

(2)(1) The commissioner of political practices is also entitled to longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18.

(3)(2) The salary of the commissioner may not be reduced during the term for which the commissioner is appointed.

(4)(3) The department of administration shall determine the appropriate occupation and pay band for the commissioner of political practices in the same manner that it determines the occupation and pay band for employees in state government pursuant to Title 2, chapter 18.

(5)(4) The governor shall set the salary of the commissioner of political practices within the ~~pay band~~ *occupational wage range for the occupation* established by the department of administration.

(6)(5) The commissioner of political practices must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304.”

Section 11. Section 15-2-102, MCA, is amended to read:

“15-2-102. Qualification and compensation. (1) To be appointed a member of the state tax appeal board, a person shall possess knowledge of the subject of taxation and skill in matters relating to taxation. A member may not hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and may not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person’s duties. The state tax appeal board is attached to the department of administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) State tax appeal board members must be paid a salary within the ~~pay band, defined in 2-18-101, determined~~ *occupational wage range for the occupation designated* by the department of administration as provided in subsection (3). State tax appeal board members must receive pay and pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation ~~and pay band~~ for the state tax appeal board members in the same manner that it determines the occupation ~~and pay band~~ for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the state tax appeal board members within the ~~pay band~~ *occupational wage range* established by the department of administration.”

Section 12. Appropriations. (1) The following money for the indicated fiscal years is appropriated from the following sources to the listed agencies to implement the adjustments provided in 2-18-303:

Fiscal Year 2018

	General Fund	State Special	Federal Special	Proprietary
Legislative				
Branch	35,180	6,210		
Consumer		2,256		
Counsel				
Judicial	84,299	2,880	83	
Branch				
Executive	1,064,196	908,447	600,410	20,127
Branch				
Montana				
University	1,142,646	253	12,228	1,022
System				
Total	2,326,321	920,045	612,721	21,149

Fiscal Year 2019

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch Consumer Counsel Judicial Branch Executive Branch Montana University System	124,184	21,919		
		7,963		
	297,576	10,165	292	
	3,756,611	3,206,816	2,119,447	71,047
	3,493,577	892	43,166	3,608
Total	7,671,948	3,247,754	2,162,905	74,655

(2) The following money is appropriated for the biennium beginning July 1, 2017, to the office of budget and program planning from the designated state fund, to be distributed to agencies when personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise:

General Fund	\$1,000,000
State Special Revenue	\$300,000
Federal Special Revenue	\$100,000
Proprietary Funds	\$25,000

(3) For the biennium beginning July 1, 2017, there is appropriated \$75,000 from the general fund to the department of administration for a labor-management training initiative.

Section 13. Montana university system voluntary retirement incentive program. For the biennium beginning July 1, 2017, the sum of \$2,000,000 in general fund is appropriated to the Montana university system to fund a retirement incentive program effort for qualified employees. The program design for the funds may include payment of health and prescription drug plan benefits, termination pay such as cashing out statutorily required benefits, or additional buyout incentives. Any funds in the program will remain in the program's fund balance, and applications will be considered until the funds are exhausted.

Section 14. Appropriations. (1) In the fiscal year beginning July 1, 2017, there is appropriated \$5,739 from the general fund to the legislative branch to implement the provisions of Senate Bill No. 240.

(2) In the fiscal year beginning July 1, 2018, there is appropriated \$11,478 from the general fund to the legislative branch to implement the provisions of Senate Bill No. 240.

Section 15. Appropriations. The following money for the indicated fiscal years is appropriated from the following sources to the executive branch for the sheriffs' retirement system costs:

Fiscal Year	General Fund	State Special	Federal Special	Proprietary
Fiscal Year 2018	67,703	22,201	4,463	7,750
Total	67,703	22,201	4,463	7,750

Fiscal Year 2019

Section 16. Appropriations. (1) In the fiscal year beginning July 1, 2017, there is appropriated \$44,901 from the general fund to the legislative branch to implement the provisions of Senate Bill No. 279.

(2) In the fiscal year beginning July 1, 2018, there is appropriated \$42,101 from the general fund to the legislative branch to implement the provisions of Senate Bill No. 279.

Section 17. Fund transfer. By August 15, 2017, the state treasurer shall transfer \$2 million from the wireless 911 state special revenue account provided for in 10-4-301(1)(c)(ii) to the general fund.

Section 18. Coordination instruction. (1) If Senate Bill No. 240 is not passed and approved, [section 14] is void.

(2) If House Bill No. 383 is not passed and approved, [section 15] is void.

(3) If Senate Bill No. 279 is not passed and approved, [section 16] is void.

Section 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 20. Effective date. [This act] is effective July 1, 2017.

Section 21. Termination. [Section 9] terminates June 30, 2019.

Approved May 22, 2017

CHAPTER NO. 431

[SB 303]

AN ACT REVISING THE MONTANA VETERANS' HOME LOAN MORTGAGE PROGRAM ACT; PROVIDING THAT ELIGIBLE VETERANS MAY USE THEIR MINIMUM CONTRIBUTIONS TOWARD PAYING CLOSING COSTS UNDER THE PROGRAM; AMENDING SECTION 90-6-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-6-604, MCA, is amended to read:

"90-6-604. Additional terms of program. (1) The maximum amount of a loan made by the board pursuant to this part is 95% of the value of the statewide allowable purchase price determined by the board pursuant to 90-6-605.

(2) The board shall require as a condition for a loan that an eligible veteran participate in a first-time home buyer education program approved by the board.

(3) A loan made by the board must be secured by a government guaranty pursuant to rules adopted by the board unless the board determines pursuant to 90-6-605(2) to allow the use of conventional mortgage insurance requirements and coverage.

(4) An eligible veteran shall participate in a loan by contributing a minimum amount of \$2,500 unless the board determines otherwise pursuant to 90-6-605(2). *An eligible veteran may use the minimum contribution toward paying closing costs and may borrow from the veterans' home loan mortgage program the maximum loan amount allowed by the mortgage insurer for the loan.*

(5) There is no limit on the maximum amount of income that may be earned by an eligible veteran for the purposes of a loan pursuant to this part.

(6) In order to allow small financial institutions to participate equitably in the program along with large financial institutions, the board shall adopt rules pursuant to 90-6-605 to specify the maximum amount of mortgage loans that may be made by any one participating financial institution.

(7) The legislative auditor must be allowed access to all documentation used for the purpose of the program.

(8) A report describing at least the operation and use of the program must be made by the board to the legislature as provided in 5-11-210. The report may be combined with other reports by the board or the department of commerce to the legislature.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to loans made under the Montana Veterans’ Home Loan Mortgage Program Act on or after [the effective date of this act].

Approved May 22, 2017

CHAPTER NO. 432

[SB 311]

AN ACT REVISING TERMS FOR A MILITARY SKILLS TEST WAIVER FOR A COMMERCIAL DRIVER’S LICENSE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 61-5-123, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-123, MCA, is amended to read:

“61-5-123. Waiver of skills test for ~~veterans~~ with related to military commercial motor vehicles experience – rulemaking. (1) The department may waive the skills test required for a commercial driver’s license if an applicant ~~who meets the conditions in subsection (2) and is:~~

(a) a veteran of the armed forces of the United States *who was honorably discharged;*

(b) *currently serving in the armed forces of the United States;*

(c) *serving full-time in a reserve component, as defined in 37-1-138; or*

(d) *honorably discharged from the reserve component after serving full-time in the reserve component.*

(2) *An applicant shall:*

(a) ~~certifies~~ *certify* that, during the 2-year period immediately prior to application, the applicant:

(i) did not have more than one license except for a military license;

(ii) did not have a license suspended, revoked, or canceled;

(iii) was not convicted of a disqualifying offense as provided in 49 CFR 383.51(b);

(iv) did not have more than one conviction for a serious traffic violation as provided in 49 CFR 383.51(c); and

(v) did not have any conviction for a violation of military, state, or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault;

(b) ~~provides~~ *provide* evidence and ~~certifies~~ *certify* that:

(i) ~~the applicant is regularly employed, or within the last 90 days was regularly employed, in a~~ *the* military position ~~requiring in which the applicant served required regular operation over at least a 2-year period immediately~~

prior to either discharge or application, as applicable, of a commercial motor vehicle representative of the class of motor vehicle for which the applicant is seeking a commercial driver's license; and

(ii) the applicant was exempted under 49 CFR 383.3(c) from the requirements of this part when operating a commercial motor vehicle in the military; and

~~(iii) for at least 2 years immediately preceding the applicant's honorable separation from military service as evidenced by the applicant's certificate of release or discharge from active duty, the applicant was operating a motor vehicle representative of the class of motor vehicle for which the applicant is seeking a commercial driver's license.~~

(2)(3) The department shall adopt rules necessary for the administration of this section."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 433

[SB 312]

AN ACT ALLOWING PRESCRIPTION DRUG FORMULARIES TO BE ADOPTED BY THE DEPARTMENT OF LABOR AND INDUSTRY BY RULE; PROVIDING FOR ADOPTION OF A COMMERCIAL DRUG FORMULARY; PROVIDING FOR AUTOMATIC UPDATING OF CERTAIN DRUG FORMULARIES; AMENDING SECTIONS 2-4-302, 2-4-305, 2-4-306, 2-4-307, 39-71-107, 39-71-704, AND 39-71-743, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-302, MCA, is amended to read:

"2-4-302. Notice, hearing, and submission of views. (1) (a) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its proposed action. The proposal notice must include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the reasonable necessity for the proposed action, and the time when, place where, and manner in which interested persons may present their views on the proposed action. The reasonable necessity must be written in plain, easily understood language.

(b) The agency shall state in the proposal notice the date on which and the manner in which contact was made with the primary sponsor as required in subsection (2)(d). If the notification to the primary sponsor was given by mail, the date stated in the proposal notice must be the date on which the notification was mailed by the agency. If the proposal notice fails to state the date on which and the manner in which the primary sponsor was contacted, the filing of the proposal notice under subsection (2)(a)(i) is ineffective for the purposes of this part and for the purposes of the law that the agency cites in the proposal notice as the authority for the proposed action.

(c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall pay or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

(i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and

(ii) the number of persons affected.

(2) (a) (i) The proposal notice must be filed with the secretary of state for publication in the register, as provided in 2-4-312. Except as provided

in subsection (2)(a)(ii), within 3 days of publication, a copy of the published proposal notice must be sent to interested persons who have made timely requests to the agency to be informed of its rulemaking proceedings, and to the office of any professional, trade, or industrial society or organization or member of those entities who has filed a request with the appropriate administrative rule review committee when the request has been forwarded to the agency as provided in subsection (2)(b).

(ii) In lieu of sending a copy of the published proposal notice to an interested person who has requested the notice, the agency may, with the consent of that person, send that person an electronic notification that the proposal notice is available on the agency's website and an electronic link to the part of the agency's website or a description of the means of locating that part of the agency's website where the notice is available.

(iii) Each agency shall create and maintain a list of interested persons and the subject or subjects in which each person on the list is interested. A person who submits a written comment or attends a hearing in regard to proposed agency action under this part must be informed of the list by the agency. An agency complies with this subsection if it includes in the proposal notice an advisement explaining how persons may be placed on the list of interested persons and if it complies with subsection (7).

(b) The appropriate administrative rule review committee shall forward a list of all organizations or persons who have submitted a request to be informed of agency actions to the agencies that the committee oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request of any person requesting to be added to or deleted from the list.

(c) The proposal notice required by subsection (1) must be published at least 30 days in advance of the agency's proposed action. The agency shall post the proposal notice on a state electronic access system or other electronic communications system available to the public.

(d) (i) When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall contact, as provided in subsection (8), the legislator who was the primary sponsor of the legislation to:

(A) obtain the legislator's comments;

(B) inform the legislator of the known dates by which each step of the rulemaking process must be completed; and

(C) provide the legislator with information about the time periods during which the legislator may comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative rule review committee.

(ii) If the legislation affected more than one program, the primary sponsor must be contacted pursuant to this subsection (2)(d) each time that a rule is being proposed to initially implement the legislation for a program.

(iii) Within 3 days after a proposal notice covered under subsection (2)(d)(i) has been published as required in subsection (2)(a)(i), a copy of the published notice must be sent to the primary sponsor contacted under this subsection (2)(d).

(3) If a statute provides for a method of publication different from that provided in subsection (2), the affected agency shall comply with the statute in addition to the requirements contained in this section. However, the notice period may not be less than 30 days or more than 6 months.

(4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit data, views, or arguments,

orally or in writing. If an amended or supplemental notice is filed, additional time may be allowed for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking must state that opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by the appropriate administrative rule review committee, or by an association having not less than 25 members who will be directly affected. If the proposed rulemaking involves matters of significant interest to the public, the agency shall schedule an oral hearing.

(5) An agency may continue a hearing date for cause. In the discretion of the agency, contested case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by statute, nothing in this section alters that requirement.

(6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.

(7) At the commencement of a hearing on the intended action, the person designated by the agency to preside at the hearing shall:

(a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the register; and

(b) inform the persons at the hearing of the provisions of subsection (2)(a) and provide them an opportunity to place their names on the list.

(8) (a) For purposes of contacting primary sponsors under subsection (2)(d), a current or former legislator who wishes to receive notice shall keep the current or former legislator's name, address, e-mail address, and telephone number on file with the secretary of state. The secretary of state may also use legislator contact information provided by the legislative services division for the purposes of the register. The secretary of state shall update the contact information whenever the secretary of state receives corrected information from the legislator or the legislative services division. An agency proposing rules shall consult the register when providing sponsor contact.

(b) An agency has complied with the primary bill sponsor contact requirements of this section when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address, and telephone number on file with the secretary of state pursuant to subsection (8)(a). If the agency is able to contact the primary sponsor by using less than all of these three methods of contact, the other methods need not be used.

(9) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."

Section 2. Section 2-4-305, MCA, is amended to read:

"2-4-305. Requisites for validity – authority and statement of reasons. (1) (a) The agency shall fully consider written and oral submissions respecting the proposed rule, including comments submitted by the primary sponsor of the legislation prior to the drafting of the substantive content and wording of a proposed rule that initially implements legislation.

(b) (i) Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted

rule as that rule is published in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(ii) If an adopted rule that initially implements legislation does not reflect the comments submitted by the primary sponsor, the agency shall provide a statement explaining why the sponsor's comments were not incorporated into the adopted rule.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section, stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section and unless notice of adoption of the rule is published within 6 months of the

publishing of notice of the proposed rule. The measure of whether an agency has adopted a rule in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section is not whether the agency has provided notice of the proposed rule, standing alone, but rather must be based on an analysis of the agency's substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) (a) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules.

(b) An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(c) If an agency uses an amended proposal notice to amend a statement of reasonable necessity for reasons other than for corrections in citations of authority, in citations of sections being implemented, or of a clerical nature, the agency shall allow additional time for oral or written comments from the same interested persons who were notified of the original proposal notice, including from a primary sponsor, if primary sponsor notification was required under 2-4-302, and from any other person who offered comments or appeared at a hearing already held on the proposed rule.

(9) If a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, the proposal notice may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records.

(10) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."

Section 3. Section 2-4-306, MCA, is amended to read:

"2-4-306. Filing and format – adoption and effective dates – dissemination of emergency rules. (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter, including rules regarding the printed or electronic format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter and the secretary of state's rules. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must

be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the agency.

(4) Each rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

(i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to the committee presiding officer and staff, make it comply with the committee's objection and concerns.

(5) An agency may not enforce, implement, or otherwise treat as effective a rule proposed or adopted by the agency until the effective date of the rule as provided in this section. Nothing in this subsection prohibits an agency from enforcing an established policy or practice of the agency that existed prior to the proposal or adoption of the rule as long as the policy or practice is within the scope of the agency's lawful authority.

(6) *This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."*

Section 4. Section 2-4-307, MCA, is amended to read:

"2-4-307. Omissions from ARM or register. (1) An agency may adopt by reference any model code, federal agency rule, rule of any agency of this state, or other similar publication if:

(a) the publication of the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise inexpedient; and

(b) it is reasonable for the agency to adopt the model code, rule, or other publication for the state of Montana.

(2) The model code, rule, or other publication must be adopted by reference in a rule adopted under the rulemaking procedure required by this chapter. The rule must contain a citation to the material adopted by reference and a statement of the general subject matter of the omitted rule and must state where a copy of the omitted material may be obtained. Upon request of the secretary of state, a copy of the omitted material must be filed with the secretary of state.

(3) (a) The model code, rule, or other publication to be adopted by an agency pursuant to subsection (1):

(i) must be in existence at the time that the agency's notice of proposed rulemaking is published in the register;

(ii) must be available to the public for comment, through either publication in the register or publication in an electronic format on the agency's web page, during the time that the rule adopting the model code, rule, or other publication is itself subject to public comment; and

(iii) except as provided in subsection (3)(b), may not be altered between the time of publication of the notice of proposed rulemaking and the publication of the notice of adoption by the agency proposing the rule unless the alteration is required in order to respond to comments in the rulemaking record of the adopting agency.

(b) If the model code, rule, or other publication is altered by the agency between the time of the publication of the notice of proposed rulemaking and the notice of adoption, the part of the model code, rule, or other publication that is altered by the agency is not adopted unless that part is also subject to a separate process of adoption as provided in this section.

(c) If the model code, rule, or other publication is made available on the agency's website, the website may provide either the full text of the model code, rule, or other publication or a link to the source of the official electronic text of the model code, rule, or other publication.

(4) A rule originally adopting by reference any model code or rule provided for in subsection (1) may not adopt any later amendments or editions of the material adopted. Except as provided in subsection (6), each later amendment or edition may be adopted by reference only by following the rulemaking procedure required by this chapter.

(5) If requested by a three-fourths vote of the appropriate administrative rule review committee, an agency shall immediately publish the full or partial text of any pertinent material adopted by reference under this section. The committee may not require the publication of copyrighted material. Publication of the text of a rule previously adopted does not affect the date of adoption of the rule, but publication of the text of a rule before publication of the notice of final adoption must be in the form of and is considered to be a new notice of proposed rulemaking.

(6) Whenever later amendments of federal regulations must be adopted to comply with federal law or to qualify for federal funding, only a notice of incorporation by reference of the later amendments must be filed in the register. This notice must contain the information required by subsection (2) and must state the effective date of the incorporation. The effective date may be no sooner than 30 days after the date upon which the notice is published unless the 30 days causes a delay that jeopardizes compliance with federal law or qualification for federal funding, in which event the effective date may be no sooner than the date of publication. A hearing is not required unless requested under 2-4-315 by either 10% or 25, whichever is less, of the persons who will be directly affected by the incorporation, by a governmental subdivision or agency, or by an association having not less than 25 members who will be

directly affected. Further notice of adoption or preparation of a replacement page for the ARM is not required.

(7) If a hearing is requested under subsection (6), the petition for hearing must contain a request for an amendment and may contain suggested language, reasons for an amendment, and any other information pertinent to the subject of the rule.

(8) *This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704.*

Section 5. Section 39-71-107, MCA, is amended to read:

“39-71-107. Insurers to act promptly on claims – in-state claims examiners – third-party agents – penalties. (1) Pursuant to the public policy stated in 39-71-105, prompt claims handling practices are necessary to provide appropriate service to injured workers, to employers, and to providers who are the customers of the workers’ compensation system.

(2) All workers’ compensation and occupational disease claims filed pursuant to the Workers’ Compensation Act must be examined by a claims examiner in Montana. For a claim to be considered as examined by a claims examiner in Montana, the claims examiner examining the claim is required to determine the entitlement to benefits, authorize payment of all benefits due, manage the claim, have authority to settle the claim, maintain an office located in Montana, and examine Montana claims from that office. Use of a mailbox or maildrop in Montana does not constitute maintaining an office in Montana.

(3) An insurer shall maintain the documents related to each claim filed with the insurer under the Workers’ Compensation Act at the Montana office of the claims examiner examining the claim in Montana until the claim is settled. The documents may be either original documents or duplicates of the original documents and must be maintained in a manner that allows the documents to be retrieved from that office and copied at the request of the claimant or the department. Settled claim files stored outside of the claims examiner’s office must be made available within 48 hours of a request for the file. Electronic or optically imaged documents are permitted.

(4) (a) An insurer that uses a third-party agent to provide the insurer with claim examination services shall notify the department in writing of a change of a third-party agent at least 14 days in advance of the change.

(b) The department may assess a penalty not to exceed \$200 against an insurer that does not comply with the advance notice provision in subsection (4)(a). The penalty may be assessed for each failure by an insurer to give the required advance notice.

(5) (a) Except for those medical benefits provided by a managed care organization or a preferred provider organization in Title 39, chapter 71, part 11, or paid pursuant to 39-71-704(4)(5), an insurer that uses a third-party agent to review medical bills shall, when first using the agent’s services and annually in subsequent years, obtain written certification from the agent that, for each bill the agent reviews, the agent agrees to calculate the payment due based on the Montana workers’ compensation medical fee schedules, provided for under 39-71-704, that were in effect on the date the service was provided.

(b) Except for those medical benefits provided by a managed care organization or a preferred provider organization in Title 39, chapter 71, part 11, or paid pursuant to 39-71-704(4)(5), an insurer whose agent neglects or fails to use the proper fee schedule may be assessed a penalty of not less than \$200 or more than \$1,000 for each bill that its agent reviews under a fee schedule other than the proper Montana fee schedule.

(c) An insurer that without good cause neglects or fails to pay undisputed medical bills on an accepted liability claim within 60 days of receipt of the bill may be assessed a penalty of not less than \$200 or more than \$1,000 for each bill that is the subject of a delay as provided in this subsection (5)(c).

(6) An insurer shall provide to the claimant:

(a) a written statement of the reasons that a claim is being denied at the time of denial;

(b) whenever benefits are denied to a claimant, a written explanation of how the claimant may appeal an insurer's decision;

(c) a written explanation of the amount of wage-loss benefits being paid to the claimant, along with an explanation of the calculation used to compute those benefits. The explanation must be sent within 7 days of the initial payment of the benefit.

(d) a written notice advising the claimant when a change is made to the claims examiner handling the claim, including the name and contact information of the new claims examiner. The notice must be sent within 14 days of the change in claims examiner.

(7) An insurer shall:

(a) begin making payments that are due on a claim within 14 days of acceptance of the claim, unless the insurer promptly notifies the claimant that the insurer needs additional information in order to begin paying benefits and specifies the information needed; and

(b) pay settlements within 30 days of the date the department issues an order approving the settlement.

(8) An insurer may contest a penalty assessed pursuant to subsection (4) or (5) in a hearing conducted according to department rules. A party may appeal the final agency order to the workers' compensation court. The court shall review the order pursuant to the requirements of 2-4-704.

(9) The department may adopt rules to implement this section.

(10) (a) For the purposes of this section, "settled claim" means a department-approved or court-ordered compromise of benefits between a claimant and an insurer or a claim that was paid in full.

(b) The term does not include a claim in which there has been only a lump-sum advance of benefits."

Section 6. Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment of medical, hospital, and related services – fee schedules and hospital rates – fee limitation. (1) In addition to the compensation provided under this chapter and as an additional benefit separate and apart from compensation benefits actually provided, the following must be furnished:

(a) After the happening of a compensable injury or occupational disease and subject to other provisions of this chapter, the insurer shall furnish reasonable primary medical services, including prescription drugs for conditions that are a direct result of the compensable injury or occupational disease, for those periods specified in this section.

(b) Subject to the limitations in this chapter, the insurer shall furnish secondary medical services only upon a clear demonstration of cost-effectiveness of the services in returning the injured worker to actual employment.

(c) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(d) (i) The insurer shall reimburse a worker for reasonable travel, lodging, meals, and miscellaneous expenses incurred in travel to a health care provider

for treatment of an injury pursuant to rules adopted by the department. Reimbursement must be at the rates allowed for reimbursement for state employees.

(ii) Rules adopted under subsection (1)(d)(i) must provide for submission of claims, within 90 days from the date of travel, following notification to the claimant of reimbursement rules, must provide procedures for reimbursement receipts, and must require the use of the least costly form of travel unless the travel is not suitable for the worker's medical condition. The rules must exclude from reimbursement:

(A) 100 miles of automobile travel for each calendar month unless the travel is requested or required by the insurer pursuant to 39-71-605;

(B) travel to a health care provider within the community in which the worker resides;

(C) travel outside the community in which the worker resides if comparable medical treatment is available within the community in which the worker resides, unless the travel is requested by the insurer; and

(D) travel for unauthorized treatment or disallowed procedures.

(iii) An insurer is not liable for injuries or conditions that result from an accident that occurs during travel or treatment, except that the insurer retains liability for the compensable injuries and conditions for which the travel and treatment were required.

(e) Pursuant to rules adopted by the department, an insurer shall reimburse a catastrophically injured worker's family or, if a family member is unavailable, a person designated by the injured worker or approved by the insurer for travel assistance expenditures in an amount not to exceed \$2,500 to be used as a match to those funds raised by community service organizations to help defray the costs of travel and lodging expenses incurred by the family member or designated person when traveling to be with the injured worker. These funds must be paid in addition to any travel expenses paid by an insurer for a travel companion when it is medically necessary for a travel companion to accompany the catastrophically injured worker.

(f) (i) The benefits provided for in this section terminate 60 months from the date of injury or diagnosis of an occupational disease. A worker may request reopening of medical benefits that were terminated under this subsection (1)(f) as provided in 39-71-717.

(ii) Subsection (1)(f)(i) does not apply to a worker who is permanently totally disabled as a result of a compensable injury or occupational disease or for the repair or replacement of a prosthesis furnished as a direct result of a compensable injury or occupational disease.

(g) Notwithstanding subsection (1)(a), the insurer may not be required to furnish, after the worker has achieved medical stability, palliative or maintenance care except:

(i) when provided to a worker who has been determined to be permanently totally disabled and for whom it is medically necessary to monitor administration of prescription medication to maintain the worker in a medically stationary condition;

(ii) when necessary to monitor the status of a prosthetic device; or

(iii) when the worker's treating physician believes that the care that would otherwise not be compensable under this subsection (1)(g) is appropriate to enable the worker to continue current employment or that there is a clear probability of returning the worker to employment. A dispute regarding the compensability of palliative or maintenance care is considered a dispute over which, after mediation pursuant to department rule, the workers' compensation court has jurisdiction.

(h) Notwithstanding any other provisions of this chapter, the department, by rule and upon the advice of the professional licensing boards of practitioners affected by the rule, may exclude from compensability any medical treatment that the department finds to be unscientific, unproved, outmoded, or experimental.

(2) (a) The department shall annually establish a schedule of fees for medical services that are necessary for the treatment of injured workers. Regardless of the date of injury, payment for medical services is based on the fee schedule rates in this section in effect on the date on which the medical service is provided. Charges submitted by providers must be the usual and customary charges for nonworkers' compensation patients. The department may require insurers to submit information to be used in establishing the schedule.

(b) (i) The department may not set the rate for medical services at a rate greater than 10% above the average of the conversion factors used by up to the top five insurers or third-party administrators providing group health insurance coverage within this state who use the resource-based relative value scale to determine fees for covered services. To be included in the rate determination, the insurer or third-party administrator must occupy at least 1% of the market share for group health insurance policies as reported annually to the state auditor.

(ii) The insurers or third-party administrators included under subsection (2)(b)(i) shall provide their standard conversion rates to the department.

(iii) The department may use the conversion rates only for the purpose of determining average conversion rates under this subsection (2).

(iv) The department shall maintain the confidentiality of the conversion rates.

(c) The fee schedule rates established in subsection (2)(b), when adopted, must be based on the following standards as adopted by the centers for medicare and medicaid services, regardless of where services are provided:

(i) the American medical association current procedural terminology codes, as those codes exist on January 1 of each year;

(ii) the healthcare common procedure coding system, as those codes and their relative weights exist on January 1 of each year;

(iii) the medicare severity diagnosis-related groups, as those codes and their relative weights exist on January 1 of each year;

(iv) the ambulatory payment classifications, as those codes and their relative weights exist on January 1 of each year;

(v) the ratio of costs to charges for each hospital, as those codes exist on January 1 of each year;

(vi) the national correct coding initiative edits, as those codes exist on January 1 of each year; and

(vii) the relative value units in the published resource-based relative value scale, as those codes exist on January 1 of each year.

(d) The department may establish additional codes and coding standards for use by providers when billing for medical services under this section.

(3) (a) The department shall establish by rule evidence-based utilization and treatment guidelines for primary and secondary medical services. There is a rebuttable presumption that the adopted utilization and treatment guidelines establish compensable medical treatment for an injured worker.

(b) (i) *The department may adopt a drug formulary as part of its utilization and treatment guidelines. To implement this section, the department may annually adopt by rule an evidence-based commercial or other evidence-based drug formulary as part of its utilization and treatment guidelines.*

(ii) *If the department adopts a commercial drug formulary, the formulary automatically includes all of the changes and updates furnished by the commercial vendor that are made during the year. This process is independent of the provisions of 2-4-307.*

(iii) *If the department adopts a drug formulary, the department shall, by rule, provide for:*

(A) *an appropriate transition of treatment, if the treatment began prior to the adoption of a drug formulary, to treatment that is consistent with the application of the formulary; and*

(B) *a timely and responsive dispute resolution process for disputes related to use of the formulary.*

(b)(c) An insurer is not responsible for treatment or services that do not fall within the utilization and treatment guidelines adopted by the department unless the provider obtains prior authorization from the insurer. If prior authorization is not requested or obtained from the insurer, an injured worker is not responsible for payment of the medical treatment or services.

(c) ~~The department shall hire a medical director. The department may establish by rule an independent medical review process for treatment or services denied by an insurer pursuant to this subsection (3) prior to mediation under 39-71-2401.~~

(d) The department, in consultation with health care providers with relevant experience and education, shall provide for an annual review of the evidence-based utilization and treatment guidelines to consider amendments or changes to the guidelines.

(4) *The department shall hire a medical director. The department may establish by rule an independent medical review process for treatment or services denied by an insurer pursuant to subsection (3) prior to mediation under 39-71-2401.*

(4)(5) For services available in Montana, insurers may pay facilities located outside Montana according to the workers' compensation fee schedule of the state where the medical service is performed.

(5)(6) (a) An insurer shall make payments at the fee schedule rate within 30 days of receipt of medical bills for which a claim has been accepted and for which no other disputes exist. Disputes must be defined by the department by rule.

(b) Any unpaid balance under this subsection (5) (6) accrues interest at 12% a year or 1% a month or a fraction of a month. If the charge is not paid within 30 days, interest on the unpaid balance accrues from the date of receipt of the original billing.

(6)(7) Once a determination has been made regarding the correct reimbursement amount, any overpayment made to a health care provider must be reimbursed to the insurer within 30 days of the determination. Any reimbursement amount remaining unpaid after 30 days accrues interest at 12% a year or 1% a month or a fraction of a month. Interest on the reimbursement amount remaining unpaid accrues from the date of receipt of the determination of the correct reimbursement amount.

(7)(8) For a critical access hospital licensed pursuant to Title 50, chapter 5, the rate for services is the usual and customary charge.

(8)(9) Payment pursuant to reimbursement agreements between managed care organizations or preferred provider organizations and insurers is not bound by the provisions of this section.

(9)(10) After mediation pursuant to department rules, an unresolved dispute between an insurer and a health care provider regarding the amount

of a fee for medical services may be brought before the workers' compensation court.

(10)(11) (a) After the initial visit, the worker is responsible for \$25 of the cost of each subsequent visit to a hospital emergency department for treatment relating to a compensable injury or occupational disease.

(b) "Visit", as used in this subsection (10) (11), means each time that the worker obtains services relating to a compensable injury or occupational disease from:

(i) a treating physician;

(ii) a physical therapist;

(iii) a psychologist; or

(iv) hospital outpatient services available in a nonhospital setting.

(c) A worker is not responsible for the cost of a subsequent visit pursuant to subsection (10)(a) (11)(a) if the visit is for treatment requested by an insurer."

Section 7. Section 39-71-743, MCA, is amended to read:

"39-71-743. Assignment or attachment of payments. (1) Payments under this chapter are not assignable, subject to attachment or garnishment, or held liable in any way for debts, except:

(a) as provided in 71-3-1118;

(b) a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law;

(c) as provided in 53-2-612 or 53-2-613 for medical benefits paid pursuant to this chapter;

(d) as provided in 39-71-742; or

(e) for workers' compensation benefits payable to an injured worker to pay restitution to an insurer whenever the injured worker is subject to court-ordered restitution for theft of workers' compensation benefits. The insurer shall notify the injured worker in writing of the withholding of any court-ordered restitution from the injured worker's benefits.

(2) Payments under this chapter are subject to assignment, attachment, or garnishment for child support as follows:

(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated by the department of public health and human services pursuant to 40-5-209; or

(b) for any lump-sum award, an amount up to that portion of the award that is necessary to pay current child support and a past-due child support obligation.

(3) After determination that the claim is covered under the Workers' Compensation Act, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. Except as provided in 39-71-704(10)(11), a fee or charge is not payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

Section 8. Effective date. [This act] is effective July 1, 2017.

Approved May 22, 2017

CHAPTER NO. 434

[SB 314]

AN ACT GENERALLY REVISING LAWS GOVERNING OPERATION OF MOTORCYCLES AND QUADRICYCLES; EXEMPTING A MOTORCYCLE OR

QUADRICYCLE THAT IS NOT BEING OPERATED ON A PAVED HIGHWAY FROM CERTAIN EQUIPMENT AND OPERATION REQUIREMENTS; PROVIDING THAT A DRIVER'S LICENSE IS NOT REQUIRED TO OPERATE A MOTORCYCLE OR QUADRICYCLE ON AN UNPAVED HIGHWAY; ALLOWING A PERSON UNDER 12 YEARS OF AGE TO OPERATE A MOTORCYCLE OR QUADRICYCLE UNDER CERTAIN CIRCUMSTANCES; REQUIRING REASONABLE AND PRUDENT OPERATION OF A MOTORCYCLE OR QUADRICYCLE AT ALL TIMES; PROVIDING EXCEPTIONS FROM OPERATION AND EQUIPMENT REQUIREMENTS FOR QUADRICYCLES BEING OPERATED FOR AGRICULTURAL PURPOSES; AMENDING SECTIONS 23-2-824, 61-8-359, 61-9-101, AND 61-9-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-824, MCA, is amended to read:

"23-2-824. Operation on public roads, streets, and highways. (1) A person may operate an off-highway vehicle on a controlled-access highway or facility only if the vehicle is registered and licensed under 61-3-301 and the operator possesses a license to drive the vehicle issued under Title 61, chapter 5.

(2) Off-highway vehicle operation is permitted on the roadway or shoulder of any public road or highway, state highway, county road, or city street located within the boundaries of any municipality only if:

(a) the operator has received permission or is otherwise authorized for that travel by the municipality in the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol for all other highways; or

(b) operation is authorized on municipal streets by municipal ordinance.

(3) (a) ~~An~~ Except as provided in subsection (3)(b), an off-highway vehicle may not be operated as allowed under subsection (2) unless it is equipped with at least one headlamp and one taillamp, which must be lighted at all times during operation, and unless it is equipped with a suitable braking device operable by either hand or foot.

(b) A motorcycle or quadricycle that is not subject to the provisions of Title 61, chapter 9, is exempt from the requirements in subsection (3)(a).

(4) (a) Except as provided in subsection (4)(b), a person who operates an off-highway vehicle when allowed under subsection (2) must have in the person's possession a license to drive a motor vehicle issued under Title 61, chapter 5.

(b) An operator is exempt from the requirement to possess a license when operating an off-highway vehicle as allowed under subsection (2) if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of operation of the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license to drive a motor vehicle; and

(iii) is operating a motorcycle or quadricycle that is not subject to the provisions of Title 61, chapter 9.

(5) A person under 12 years of age may operate a motorcycle or quadricycle on unpaved roads or highways if the person is accompanied by an adult and the motorcycle or quadricycle is operated in a reasonable and prudent manner.

The provisions of 61-9-417 apply to the operation of a motorcycle or quadricycle under this subsection."

Section 2. Section 61-8-359, MCA, is amended to read:

"61-8-359. Riding on motorcycles or quadricycles. (1) A person operating a motorcycle ~~or quadricycle~~ on public streets or highways may ride only upon the permanent and regular seat attached to the motorcycle ~~or quadricycle~~. The operator may not carry any other person and another person may not ride on a motorcycle ~~or quadricycle~~ unless the motorcycle ~~or quadricycle~~ is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the rear or side of the operator.

(2) A passenger may not be carried in a position that will interfere with the operation of the motorcycle ~~or quadricycle~~ or the view of the operator.

(3) A person operating a motorcycle ~~or quadricycle~~ may not carry any packages, bundles, or articles that would prevent the operator from keeping both hands on the handlebars or that would interfere with the operation of the vehicle in a safe and prudent manner.

(4) A person may ride upon a motorcycle ~~or quadricycle~~ only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle ~~or quadricycle~~.

(5) Except as provided in subsections (5)(a) and (5)(b) *and subject to 61-9-101(4)*, motorcycles ~~and quadricycles~~ must be operated with lights on at all times when operated on any public roadway. A motorcycle ~~or quadricycle~~ may be operated without lights from one-half hour before sunrise to one-half hour after sunset if:

(a) the motorcycle is registered under 61-3-411 as a collector's item and if persons and vehicles are clearly discernible at a distance of 500 feet; or

(b) the motorcycle ~~or quadricycle~~ is being driven to the nearest repair facility for headlamp repair.

(6) No more than two motorcycles may be operated side by side in a single traffic lane.

(7) All motor vehicles, including motorcycles and quadricycles, are entitled to the full use of a traffic lane, and a vehicle may not be driven or operated in a manner that deprives any other vehicle of the full use of a traffic lane, except that motorcycles may, with the consent of both drivers, be operated no more than two abreast in a single traffic lane.

(8) Every person riding a motorcycle or quadricycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a motor vehicle except for those provisions which, by their nature, can have no application.

(9) *A person operating a motorcycle or quadricycle shall operate the motorcycle or quadricycle in a reasonable and prudent manner at all times."*

Section 3. Section 61-9-101, MCA, is amended to read:

"61-9-101. Application – exceptions. (1) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except *as provided in subsection (4) or where a different place is specifically referred to in a given section.*

(2) The operation of motor vehicles directly across the public roads and highways of this state, especially as required in the transportation of natural resource products, including agricultural products and livestock, may not be considered to be the operation of the vehicles on the public roads and highways of this state. The crossings must be adequately marked with warning signs or devices relating to stopping before entry and to restoration of any damage, as

may reasonably be prescribed by the state or local agency in control of safety of operation of the public highway involved.

(3) If a provision of this chapter conflicts with federal laws or regulations governing motor vehicle equipment standards, the applicable federal law or regulation supersedes.

(4) (a) *Except as provided in subsection (4)(b) and subject to subsection (4)(c), the provisions of this chapter apply to the operation and equipping of a motorcycle or quadricycle only when the motorcycle or quadricycle is being operated on a paved highway. A person operating a motorcycle or quadricycle on an unpaved highway shall operate the motorcycle or quadricycle in a reasonable and prudent manner.*

(b) *Except as provided in subsection (4)(c), the requirements of 61-9-417 and 61-9-418(2)(c) apply to the operation of a motorcycle or quadricycle at all times specified in those sections.*

(c) *The provisions of this chapter do not apply to the operation and equipping of a quadricycle that is being operated for agricultural purposes on an unpaved highway or on a paved highway that is not part of the federal-aid interstate system as defined in 60-1-103."*

Section 4. Section 61-9-109, MCA, is amended to read:

"61-9-109. Driving vehicle in unsafe condition prohibited – applicability of chapter. (1) It is a misdemeanor for a person to drive or permit to be driven on a highway a vehicle or combination of vehicles that:

(a) is in such unsafe condition as to endanger a person;

(b) is not equipped with lamps and other equipment as required in this chapter; or

(c) is equipped in a manner in violation of this chapter.

(2) It is a misdemeanor for a person to perform an act forbidden or fail to perform an act required under this chapter.

(3) The use of additional parts and accessories on a vehicle not inconsistent with the provisions of this chapter is not prohibited.

(4) The provisions of this chapter do not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as made applicable in this chapter.

(5) All lamps and equipment required by this chapter must be maintained in proper working order and adjustment at all times.

(6) (a) *Except as provided in subsection (6)(b) and subject to subsection (6)(c), the provisions of this chapter apply to the operation of a motorcycle or quadricycle only when the motorcycle or quadricycle is being operated on a paved highway. A person operating a motorcycle or quadricycle on an unpaved highway shall operate the motorcycle or quadricycle in a reasonable and prudent manner.*

(b) *Except as provided in subsection (6)(c), the requirements of 61-9-417 and 61-9-418(2)(c) apply to the operation of a motorcycle or quadricycle at all times specified in those sections.*

(c) *The provisions of this chapter do not apply to the operation and equipping of a quadricycle that is being operated for agricultural purposes on an unpaved highway or on a paved highway that is not part of the federal-aid interstate system as defined in 60-1-103."*

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 435

[SB 336]

AN ACT REVISING LAWS RELATING TO TEMPORARY REGISTRATION PERMITS; ALLOWING ISSUANCE OF A TEMPORARY REGISTRATION PERMIT IF THE OWNER CANNOT SURRENDER A PREVIOUSLY ASSIGNED TITLE; REQUIRING A COUNTY TREASURER TO ISSUE A TEMPORARY REGISTRATION PERMIT IN CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 61-1-101, 61-3-224, 61-3-303, 61-3-317, AND 61-4-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-1-101, MCA, is amended to read:

“61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) “Authorized agent” means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department’s motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), “person” means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) “Authorized agent agreement” means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) “Bus” means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4) (a) “Business entity” means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5) (a) “Camper” means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6) “CDLIS driver record” means the electronic record of a person’s commercial driver’s license status and history stored as part of the commercial driver’s license system established under 49 U.S.C. 31309.

(7) “Certificate of title” means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8) “Commercial driver’s license” means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(9) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (9):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(10) "Commission" means the state transportation commission.

(11) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(12) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (13)(a) through (13)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (14)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(22) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33) "Low-speed restricted driver's license" means a license or permit limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or instruction permit;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34) "Manufactured home" has the meaning provided in 15-24-201.

(35) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

(d) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(43) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.

(44) "Motor home" means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

(45) (a) "Motorized nonstandard vehicle" means a vehicle, on or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(46) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(47) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(48) "Nonresident" means a person who is not a Montana resident.

(49) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(50) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(51) "Operator" means a person who is in actual physical control of a motor vehicle.

(52) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(53) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

(54) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes,

or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(58) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(59) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(60) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(66) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(71) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for:

(i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs; or

(ii) 90 days from the date the record is issued for a permit issued pursuant to 61-3-303(3)(b).

(81) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87) "Under the influence" has the meaning provided in 61-8-401.

(88) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer,

wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(89) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Section 2. Section 61-3-224, MCA, is amended to read:

"61-3-224. Temporary registration permit – authority to adopt rules – issuance – placement – fees. (1) The department may adopt rules governing the issuance of temporary registration permits. The rules must specify the purposes for which a temporary registration permit may be issued, including but not limited to issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number in order to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim; ~~or~~

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in chapter 9 but the quadricycle or motorcycle designed for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or

(i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title.

(2) (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

(3) A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(4) A temporary registration permit issued under this section must contain the following information:

(a) a temporary plate number as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(5) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(6) (a) Except as provided in 61-3-431 and ~~subsection~~ *subsections* (6)(b) and (6)(c) of this section, a \$3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer ~~when the vehicle is registered upon issuance of the permit.~~

(b) Except as provided in 61-3-431, a fee of \$8 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state or who registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(c) A fee of \$24 is imposed and must be paid upon issuance of a temporary registration permit for a 90-day temporary registration permit as provided in 61-3-303(3)(b).

(7) The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in 61-3-118.

(8) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person.”

Section 3. Section 61-3-303, MCA, is amended to read:

“61-3-303. Original registration – process – fees. (1) Except as provided in 61-3-324, a Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state.

(2) Except as provided in subsection (3), the county treasurer or an authorized agent shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or

(b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(3) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer or an authorized agent ~~may register~~ *shall collect fees pursuant to 61-3-203 and 61-3-220(4) and issue a 90-day temporary registration permit pursuant to 61-3-224 for a motor vehicle, trailer, semitrailer, or pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner’s control, surrender a previously assigned certificate of title. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312 shall request the 90-day temporary registration permit from the authorized agent or county treasurer that originally issued the temporary registration permit.*

(4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).

(7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred.

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.

(11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301."

Section 4. Section 61-3-317, MCA, is amended to read:

"61-3-317. New registration required for transferred motor vehicle – grace period – penalty – display of proof of purchase. (1) The new owner of a transferred motor vehicle, trailer, semitrailer, or pole trailer has a grace period of 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by this chapter, and local option taxes, if applicable. However, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for and is properly displayed on the motor vehicle, trailer, semitrailer, or pole trailer as permitted by 61-3-224.

(2) If the motor vehicle, trailer, semitrailer, or pole trailer was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the motor vehicle, trailer, semitrailer, or pole trailer upon the streets and highways of this state without a current registration receipt or registration decal during the ~~40-day~~ period *allowed under 61-1-101(80)(b)* if at all times during that period a temporary registration permit issued under 61-3-224 is properly displayed."

Section 5. Section 61-4-111, MCA, is amended to read:

"61-4-111. Used vehicles – transfer to and from dealers. (1) Except as provided in 61-4-124(6), a dealer or wholesaler who intends to resell a used motor vehicle, power sports vehicle, or trailer and who operates the motor vehicle, power sports vehicle, or trailer only for demonstration purposes:

(a) is exempt from registration under 23-2-515, 23-2-616, 23-2-804, or 61-3-302(3) when applying for a certificate of title; and

(b) may transfer or receive ownership of a motor vehicle, power sports vehicle, or trailer by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the motor vehicle, power sports vehicle, or trailer may not be transferred until an application for a certificate of title has been submitted by the dealer or an authorized agent to an authorized agent or the department and a new certificate of title has been issued.

(2) Upon the transfer of a used motor vehicle, power sports vehicle, or trailer to a person other than a dealer or wholesaler, a temporary registration permit may be issued under 61-3-224 to the person to whom the used motor vehicle, power sports vehicle, or trailer was transferred if the dealer is an authorized agent, as defined in 61-1-101. In addition, the following acts are required of the dealer on or before the times set forth in this subsection:

(a) Within 30 calendar days following the date of delivery of the motor vehicle, power sports vehicle, or trailer, *or within 120 calendar days if a temporary registration permit is issued pursuant to 61-3-303(3)(b)*, the dealer shall forward to an authorized agent or to the county treasurer of the county

where the owner of the motor vehicle, power sports vehicle, or trailer is domiciled:

(i) the assigned certificate of title or, if a certificate of title for the motor vehicle, power sports vehicle, or trailer has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession; and

(ii) an application for a certificate of title executed by the new owner in accordance with the provisions of 61-3-216 and 61-3-220.

(b) Transmission of the documents by the dealer to the county treasurer or an authorized agent may be accomplished either by personal delivery, by first-class mail, or by electronic means, as authorized by the department.

(c) If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection (2)(a) ~~because the certificate of title is lost, is in the possession of third parties, or is in the process of reissuance in this state or elsewhere,~~ the dealer shall comply in all other respects with the provisions of subsection (2)(a) and shall forward the missing document or documents to the county treasurer or an authorized agent within 3 days after receipt *is subject to the provisions of 61-4-119.*

(3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle, power sports vehicle, or trailer is considered to have passed to the purchaser as of the date of the delivery of the motor vehicle, power sports vehicle, or trailer to the purchaser by the dealer, and the dealer has no further liability or responsibility with respect to the processing of registration."

Approved May 22, 2017

CHAPTER NO. 436

[SB 341]

AN ACT ESTABLISHING REQUIREMENTS FOR CONTRACTS INVOLVING PARTICIPATION IN THE WASHINGTON, WYOMING, ALASKA, MONTANA, AND IDAHO MEDICAL EDUCATION PROGRAM; REVISING FEES BASED ON A STUDENT'S RETURN TO MONTANA TO PRACTICE MEDICINE; REQUIRING REPAYMENT OF STATE-PAID SUPPORT FEES FOR FAILURE TO HONOR CONTRACT REQUIREMENTS; PROVIDING FOR SUSPENSION AND WAIVER OF REPAYMENT IN CERTAIN SITUATIONS; AMENDING SECTIONS 20-26-1501, 20-26-1502, AND 20-26-1503, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Contract requirements for university of Washington cooperative medical education program. (1) (a) An individual accepted into the cooperative medical education program with the university of Washington school of medicine shall, before confirming enrollment in the program, enter into a contract specifying whether the individual will commit to entering active full-time professional practice in Montana for a period of 3 years within 1 year of obtaining professional status.

(b) Residency in a family medicine residency program in Montana must be credited toward the practice requirement of this section at a rate of one-third year for each year of service in the residency program.

(2) An individual who decides against committing to entering full-time professional practice in Montana shall pay 2.5 times the fee established in

20-26-1502. The fee must be deposited in the state special revenue account provided for in 20-26-1501.

(3) (a) An individual who fails to honor a commitment to return to Montana to enter full-time professional practice for the full 3-year period shall repay the full amount of the individual medicine support fee paid by the state for the individual's medical education.

(b) Repayment must begin within 1 year of obtaining professional status and must be completed within 10 years of the date the repayment requirement began.

(c) Interest must accrue at the time the loan becomes due at a rate equal to the rate for the federal Stafford loan, adjusted annually but not to exceed 8%.

(4) The repayment obligation may be:

(a) suspended if repayment is temporarily impossible or would create extreme hardship for a temporary period, including but not limited to suspension for medical reasons, personal reasons, parental leave, or call to active duty in the armed forces; or

(b) waived if repayment is permanently impossible or would create extreme hardship, including but not limited to death, inability to complete the program, or inability to obtain professional status due to disability or another reason.

(5) The board of regents may adopt policies to carry out the provisions of this section including but not limited to:

(a) determination of the time at which an individual obtains professional status; and

(b) the circumstances under which repayment of the medicine support fee may be suspended or waived.

Section 2. Section 20-26-1501, MCA, is amended to read:

"20-26-1501. Incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account. There is an incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account. Money is payable into the account as provided in 17-1-511, and 20-26-1502, and [section 1]. Income and earnings on the account must be redeposited in the account. The account must be administered by the board of regents as provided in this part."

Section 3. Section 20-26-1502, MCA, is amended to read:

"20-26-1502. Fee assessments – deposits. (1) The board of regents may assess a fee to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for a professional education program in those fields, as those fields are defined by the compact.

(2) *The Except as provided in [section 1], the fee may not exceed an amount equal to 16% of the annual individual medicine support fee paid by the state pursuant to 20-25-804.*

(3) *The fee provided for in [section 1] and this section must be assessed by the board of regents and deposited in the state special revenue account established in 20-26-1501."*

Section 4. Section 20-26-1503, MCA, is amended to read:

"20-26-1503. Use of incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account. (1) The state special revenue account established in 20-26-1501 is statutorily appropriated, as provided in 17-7-502, to the board of regents to be used to pay:

(a) the educational debts of physicians who practice in rural areas or medically underserved areas or for medically underserved populations of the state that demonstrate a need for assistance in physician recruitment; and

(b) the expenses of administering the incentive program. The expenses of administering the program may not exceed 10% of the annual fees assessed pursuant to 20-26-1502.

(2) The board of regents shall establish procedures for determining rural areas and medically underserved areas or populations of the state that qualify for assistance in physician recruitment. An eligible area or eligible population must demonstrate that a physician shortage exists or that the area or population has been unsuccessful in recruiting physicians in other ways.

(3) A physician from an area or serving a population determined to be eligible under subsection (2) may apply to the board of regents for payment of an educational debt directly related to a professional school, as provided in subsection (4). Physicians who have paid the fee authorized in 20-26-1502 or [section 1] must be given a preference over other applicants. To receive the educational debt payments, the physician shall sign an annual contract with the board of regents. The contract must provide that the physician is liable for the payments if the physician ceases to practice in the eligible area or serve the eligible population during the contract period.

(4) The maximum amount of educational debt payment that a physician practicing in a rural area or medically underserved area or for a medically underserved population may receive is \$100,000 over a 5-year period or a proportionally reduced amount for a shorter period.

(5) The amount contractually committed in a year may not exceed the annual amount deposited in the state special revenue account established in 20-26-1501.”

Section 5. Implementation. The department shall implement [this act] within existing resources.

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 25, part 8, and the provisions of Title 20, chapter 25, part 8, apply to [section 1].

Section 7. Applicability date. [This act] applies to individuals entering the cooperative medical education program with the university of Washington as freshmen in academic year 2018-2019 or later.

Approved May 22, 2017

CHAPTER NO. 437

[SB 342]

AN ACT ESTABLISHING GOOD NEIGHBOR FORESTRY ACCOUNTS; REQUIRING FEDERAL AND STATE FUNDS IN THE ACCOUNTS TO BE USED FOR FOREST MANAGEMENT ACTIVITIES PURSUANT TO THE GOOD NEIGHBOR POLICY ESTABLISHED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; AMENDING SECTION 76-13-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Congress passed the 2014 farm bill and established good neighbor authority to focus on forest restoration efforts and increase partnerships between the U.S. forest service and individual states; and

WHEREAS, Montana forests play a significant role in the state’s economic well-being, attracting new businesses, supporting a booming tourism industry,

and providing good-paying jobs in the timber industry in many smaller communities; and

WHEREAS, Governor Bullock identified more than 5 million acres of federal landscape in need of management and there are millions more acres requiring forest management work to be done to protect the state's economy and maintain a viable wood products industry; and

WHEREAS, projects already are helping sustain 1,047 jobs with a total of \$60.5 million in labor and proprietor income, and \$23.8 million in state and federal taxes; and

WHEREAS, future goals include using federal revenue from timber projects to fund more restoration work throughout Montana's forests and further bolster the state's economy.

Be it enacted by the Legislature of the State of Montana:

Section 1. Good neighbor forestry accounts – uses. (1) There are good neighbor forestry special revenue accounts administered by the department within the state special revenue fund and the federal special revenue fund established in 17-2-102.

(2) (a) All state proceeds allocated or budgeted for the purposes of the good neighbor policy established pursuant to 76-13-104 must be deposited in the state special revenue account provided for in subsection (1) of this section.

(b) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source intended to be used for the purposes of the good neighbor policy established pursuant to 76-13-104 must be deposited in the appropriate account provided for in subsection (1) of this section.

(c) Federal funds received by the state through good neighbor agreements with the federal government must be deposited in the federal special revenue account provided for in subsection (1) to be used for the purposes of the good neighbor policy established pursuant to 76-13-104.

(3) The department may spend funds in the accounts only to carry out the provisions of the good neighbor policy established pursuant to 76-13-104.

Section 2. Section 76-13-104, MCA, is amended to read:

"76-13-104. Functions of department – rulemaking. (1) (a) The department has the duty to ensure the protection of land under state and private ownership and to suppress wildfires on land under state and private ownership. Fees may not be collected for this purpose except fees provided for in 76-13-201.

(b) The department may engage in wildfire initial attack on all lands if the fire threatens to move onto state or private land.

(2) (a) The department shall adopt rules to protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire and for that purpose, in declared emergencies, may employ personnel and incur other expenses when necessary.

(b) The department may adopt and enforce reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of part 2 and this part.

(3) The duty imposed on the department under this section is not exclusive to the department and does not absolve private property owners or local governmental fire agencies organized under Title 7, chapter 33, from any fire protection or suppression responsibilities.

(4) The department may give technical and practical advice concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, shelterbelts, and fire protection.

(5) The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

(6) The department shall establish and maintain wildland fire control training programs.

(7) The department shall appoint firewardens in the number and localities that it considers necessary and shall adopt rules prescribing the qualifications and duties of firewardens that are in addition to those provided in 76-13-116.

(8) The department shall adopt rules addressing development within the wildland-urban interface, including but not limited to:

(a) best practices for development within the wildland-urban interface; and

(b) criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface.

(9) ~~(a) The department shall advocate for the inclusion of Montana in federal legislation to establish a good neighbor policy that would allow the secretary of the interior or the secretary of agriculture to department to enter into a cooperating and coordinating agreement or contract that would authorize~~ *authorizes* the state forester to engage in forest management and education activities to:

(i) reduce wildland fire risk and intensity on federal land designated as wildland-urban interface under 76-13-145; and

(ii) take advantage of federal authority that promotes sustainable forest management.

(b) Forest management activities to reduce wildland fire risk and intensity included in the good neighbor policy must include the authority to:

(i) treat insect-infested trees;

(ii) reduce hazardous fuels; and

(iii) conduct any other activities to improve the overall diversity and vigor of forested landscapes.

(10) The department has the authority to intervene in litigation or appeals on federal forest management projects that involve reduction of hazardous fuels or other activities to mitigate the risk of wildland fire in the wildland-urban interface.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 22, 2017

CHAPTER NO. 438

[SB 359]

AN ACT PROVIDING FOR PROPERTY TAXATION AND CLASSIFICATION OF QUALIFIED DATA CENTERS AND RELATED PROPERTY; CREATING A CLASS SEVENTEEN PROPERTY TAX CLASSIFICATION FOR QUALIFIED DATA CENTERS; PROVIDING FOR LOCAL ASSESSMENT OF QUALIFIED DATA CENTERS AND CENTRAL ASSESSMENT OF DEDICATED COMMUNICATIONS INFRASTRUCTURE; PROVIDING A REDUCED TAX RATE FOR DEDICATED COMMUNICATIONS INFRASTRUCTURE FOR A 15-YEAR PERIOD; PROVIDING FOR NEW OR EXPANDING INDUSTRY PROPERTY TAX ABATEMENTS; PROVIDING DEFINITIONS; AMENDING

SECTIONS 15-6-156, 15-23-101, AND 15-24-1401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, no large-scale commercial data centers currently operate in Montana; and

WHEREAS, Montana's current property tax classes and assessment methodologies prevent large data center operators from locating in Montana due to valuation uncertainty and noncompetitive tax rates; and

WHEREAS, Montana needs to create a new property tax class and valuation certainty while expanding existing abatements and incentives to allow local governments in Montana to compete against locations outside Montana for data center investment.

Be it enacted by the Legislature of the State of Montana:

Section 1. Class seventeen property – description – taxable percentage. (1) Class seventeen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135 of a qualified data center.

(2) (a) "Qualified data center" means the land, improvements, and personal property of a facility designed or modified to house networked computers or equipment supporting computing, networking, or data storage that is:

(i) composed of one or more buildings under single ownership on contiguous parcels of land that consist of at least 300,000 square feet, where the total cost of land, improvements, personal property, and software is at least \$150 million; and

(ii) commences construction after June 30, 2017.

(b) The term includes but is not limited to:

(i) cooling systems, cooling towers, and other temperature infrastructure;

(ii) power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the facility, such as exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and

(iii) any other equipment necessary for the maintenance and operation of the facility.

(3) During construction, property not meeting the requirements of subsection (2) must be classified as class seventeen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the requirements of subsection (2) within 2 years of the date of the certification.

(4) The taxable property of a qualified data center must be locally assessed.

(5) (a) Class seventeen property includes centrally assessed interstate or intrastate dedicated communications infrastructure that is owned or leased by the owner of a qualified data center and is composed of telecommunication or data lines, equipment, and services, including but not limited to copper or fiber optic lines or microwave, satellite, or other wireless communication systems.

(b) To qualify under this subsection (5), construction of the owned or leased interstate or intrastate communications infrastructure must commence after June 30, 2017, and before July 1, 2027, and must satisfy the criteria of this section.

(c) Dedicated communications infrastructure provided for in this subsection (5) is taxed at the rate provided for in subsection (6) for a period of 15 years from the time that construction commences. After the 15-year period, the dedicated communications infrastructure is taxed as class thirteen property at the rate provided in 15-6-156.

(6) Class seventeen property is taxed at 0.9% of its market value.

Section 2. Section 15-6-156, MCA, is amended to read:

“15-6-156. Class thirteen property – description – taxable percentage. (1) Except as provided in subsections (2)(a) through (2)(g) (2)(h), class thirteen property includes:

(a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

(b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any electrical energy producer; **and**

(d) allocations of centrally assessed telecommunications services companies; **and**

(e) *dedicated communications infrastructure described in [section 1(5)] for which construction commenced after June 30, 2027, or for which the 15-year period provided for in [section 1(5)(c)] has expired.*

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or 15-6-157;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified under 15-6-135;

(f) property owned by organizations providing telecommunications services and classified under 15-6-135; **and**

(g) generation facilities that are exempt under 15-6-225; **and**

(h) *qualified data centers classified under [section 1].*

(3) (a) For the purposes of this section, “electrical generation facilities” means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138.

(4) Class thirteen property is taxed at 6% of its market value.”

Section 3. Section 15-23-101, MCA, is amended to read:

“15-23-101. Properties centrally assessed. The department shall centrally assess each year:

(1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state including but not limited to:

(a) telegraph, telephone, microwave, and electric power or transmission lines;

(b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service commission or the federal energy regulatory commission;

(c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15102(2);

(d) natural gas distribution utilities;

(e) the gas gathering facilities specified in 15-6-138(5);

(f) *the dedicated communications infrastructure specified in [section 1(5)]*;

(~~f~~)(g) canals, ditches, flumes, or like properties; and

(~~g~~)(h) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(3) all property of scheduled airlines;

(4) the net proceeds of mines, except bentonite mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12.”

Section 4. Section 15-24-1401, MCA, is amended to read:

“15-24-1401. Definitions. The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) “Expansion” means that the industry has added after July 1, 1987, at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) “Industry” includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry’s gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales; or

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225; or

(g) *operates a qualified data center or dedicated communications infrastructure classified under [section 1]*.

(3) “New” means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested after July 1, 1987, at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New industry does not include property treated as new industrial property under 15-6-135.

(4) “Qualifying” means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section.”

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Applicability. [This act] applies to tax years beginning after December 31, 2017.

Approved May 22, 2017

CHAPTER NO. 439

[SB 372]

AN ACT REVISING LOCAL GOVERNMENT FINANCIAL REPORTING AND AUDITING REQUIREMENTS; PROVIDING THAT REVENUE OR FINANCIAL ASSISTANCE RECEIVED BY A LOCAL GOVERNMENT IN EXCESS OF AN AMOUNT ESTABLISHED BY THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET CAUSES AN AUDIT EVERY 2 YEARS; LIMITING THE AMOUNT THAT CERTAIN LOCAL GOVERNMENTS ARE REQUIRED TO PAY FOR FILING AN AUDIT REPORT OR FINANCIAL REPORT; AMENDING SECTIONS 2-7-503 AND 2-7-514, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-7-503, MCA, is amended to read:

“2-7-503. Financial reports and audits of local government entities.

(1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report *that is* in excess of \$500,000 *and that is also in excess of the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3)*, regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity’s preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to

the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the state treasurer and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517.”

Section 2. Section 2-7-514, MCA, is amended to read:

“2-7-514. Filing of audit report and financial report. (1) Completed audit reports must be filed with the department. Completed financial reports must be filed with the department as provided in 2-7-503(1). The state superintendent of public instruction shall file with the department a list of school districts subject to audit under 2-7-503(3). The list must be filed with the department within 6 months after the close of the fiscal year.

(2) At the time that the financial report is filed or, in the case of a school district, when the audit report is filed with the department, the local government entity shall pay to the department a filing fee. The department shall charge a filing fee to any local government entity required to have an audit under 2-7-503, which fee must be based upon the costs incurred by the department in the administration of this part. Notwithstanding the provisions of 20-9-343, the filing fees for school districts required by this section must be paid by the office of public instruction. The department shall adopt the fee schedule by rule based upon the local government entities’ revenue amounts, *except that a local government meeting the requirements of 2-7-503(3)(b) shall pay only the administrative fee set by the department in rule.*

(3) Copies of the completed audit and financial reports must be made available by the department and the local government entity for public inspection during regular office hours.”

Section 3. Effective date. [This act] is effective July 1, 2017.

Approved May 22, 2017

CHAPTER NO. 440

[SB 374]

AN ACT REVISING ELECTRIC UTILITY LINE EXTENSION REQUIREMENTS; ALLOWING CERTAIN CUSTOMERS TO SEEK AN ALTERNATIVE COST ESTIMATE AND HAVE A CONTRACTOR CONSTRUCT AN EXTENSION WHEN APPROPRIATE; REQUIRING THAT A FEE BE PAID TO THE PUBLIC SERVICE COMMISSION BY CERTAIN CUSTOMERS; REQUIRING AN ELECTRIC UTILITY TO INSPECT THE CONSTRUCTION AND BE ONSITE FOR CONSTRUCTION; REQUIRING A SMALL CUSTOMER TO COVER EXTENSION COSTS IF AN ALTERNATIVE CONTRACTOR IS SELECTED; LIMITING THE REFUND OF CERTAIN EXTENSION COSTS; REQUIRING THE PAYMENT OF THE STANDARD PREVAILING WAGE; REQUIRING A JOURNEYMAN LINEMAN OR PROFESSIONAL ENGINEER TO BE PART OF A PROJECT; REVISING DEFINITIONS; AMENDING SECTIONS 69-5-121 AND 69-5-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Review and selection of contractor. (1) (a) After an electric utility provides a cost estimate to a small customer for an extension on the small customer's property to a residential, commercial, or added structure, the small customer may request a contractor to provide an alternative cost estimate.

(b) If the small customer requesting an alternative cost estimate is served by a public utility as defined in 69-5-121(4)(a), the small customer shall pay a \$25 fee to the public service commission and file a copy of the cost estimate and alternative cost estimate with the commission.

(2) (a) Subject to subsection (2)(b), after receiving an alternative cost estimate, the small customer may hire the contractor to complete the extension on the small customer's property to the residential, commercial, or added structure.

(b) At least 20 days prior to the contractor beginning work on the extension, the small customer shall notify the electric utility that will be providing service to the small customer. The notification must be in writing.

(3) (a) Subject to subsections (3)(b) through (3)(d), if a contractor is selected, the extension must be built on the small customer's property to meet the same standards proposed by the electric utility that will be providing service to the small customer.

(b) Throughout construction and as the electric utility considers appropriate, the electric utility shall inspect the extension and be onsite. The contractor shall notify the electric utility of construction progress as needed for inspection.

(c) If a contractor is selected, the contract for an extension must require the payment of the standard prevailing wage rate in effect and applicable to the work being performed.

(d) Either the contractor selected in accordance with subsection (3)(a) or the person selected by the electric utility completing inspections onsite in accordance with subsection (3)(b) must be a journeyman lineman or professional engineer.

(4) (a) When the extension is completed by the contractor, the electric utility that will be providing service to the small customer shall complete a final inspection. After the final inspection and following the correction of deficiencies, if any, the electric utility shall provide the small customer a written statement that construction is complete.

(b) After the written statement is issued in accordance with subsection (4)(a), the electric utility shall connect the extension to the electric utility's system.

(5) Construction and completion of an extension by a contractor does not:

(a) affect the location of a vector, a capacity decision, or any other agreement made in accordance with 69-5-101 through 69-5-114;

(b) allow the contractor to connect an extension to an electric utility without the electric utility's written statement and final inspection in accordance with subsection (4); or

(c) affect the rights and duties of a rural electric cooperative organized in accordance with Title 35, chapter 18, to adopt policies or to implement the provisions of this section.

(6) (a) If a contractor is hired in accordance with this section, the cost of engineering, construction, and other services must be paid by the small customer who sought the alternative cost estimate and hired the contractor.

(b) The small customer is also responsible for costs incurred by an electric utility while onsite during construction and inspections in accordance with subsections (3) and (4).

(7) If a contractor is hired in accordance with this section, when construction is complete the customer

and the electric utility may negotiate ownership and maintenance of the extension.

Section 2. Section 69-5-121, MCA, is amended to read:

"69-5-121. Definitions. As used in 69-5-122, [section 1], and this section, the following definitions apply:

(1) *"Added structure" means any outbuildings, improvements, irrigation pumps, facilities, or other structures located on a small customer's property.*

(2) *"Commercial structure" means a building used for commercial purposes.*

(3) *"Contractor" means a person who submits a proposal to construct or enters into a contract to construct an extension and who is licensed, insured, a member of the national electrical contractors association, and experienced in comparable construction.*

(4) *"Electric utility" means:*

(a) *a public utility regulated by the public service commission pursuant to Title 69, chapter 3, that provides electrical service for heat, light, or power to a small customer; or*

(b) *a utility qualifying as a rural electric cooperative pursuant to Title 35, chapter 18, that provides electrical service for heat, light, or power to a small customer.*

(5) *"Extension" means any works or improvements necessary to connect a residential, commercial, or added structure of a small customer to an electric utility's distribution or transmission system.*

(6) *"Residential structure" means a single-family house, trailer, manufactured home, or mobile home, excluding any outbuildings, improvements, irrigation pumps, facilities, or other structures located on the property.*

(7) *"Small customer" has the meaning provided in 69-3-2003."*

Section 3. Section 69-5-122, MCA, is amended to read:

“69-5-122. Residential utility line extension – refund. (1) A small customer of an electric utility *as defined in 69-5-121(4)(a)* who pays for a portion of the construction of an extension to a residential structure or who advances money to ~~the~~ *an electric utility as defined in 69-5-121(4)(a)* for a subsequent connection to that extension must receive a refund as provided in subsection (2) if an additional customer connects to the extension.

(2) Each additional customer, prior to the initiation of electric service, shall advance to ~~the~~ *an electric utility as defined in 69-5-121(4)(a)* an equal proportionate share of the total amount paid for the extension *to a residential structure*. The electric utility shall refund the advance on a pro rata basis to the small customer who paid for the initial extension or to the small customer who paid for a subsequent connection to that extension. A refund may not be issued after 10 years from the date the initial extension is established.

(3) A small customer who expends funds for an extension *to a residential structure* may not receive a refund that is greater than the amount necessary to return the small customer to the small customer’s proportionate share of the cost of the original extension.

(4) A small customer may receive a refund pursuant to this section only if:

(a) the small customer paid for the initial extension or subsequent connection to the extension pursuant to subsection (1); **and**

(b) at the time the refund is issued, the small customer owns the residential structure to which the extension or subsequent connection to the extension was made; *and*

(c) *the small customer did not hire a contractor to complete the extension pursuant to [section 1].”*

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 5, and the provisions of Title 69, chapter 5, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Applicability. [This act] applies to extensions occurring on or after [the effective date of this act].

Approved May 22, 2017

CHAPTER NO. 441

[SB 94]

AN ACT PROVIDING FOR A PROPERTY TAX EXEMPTION FOR CERTAIN RESIDENTIAL PROPERTY WHEN LAND VALUE IS DISPROPORTIONATELY HIGHER THAN THE VALUE OF THE ASSOCIATED IMPROVEMENTS; RESTRICTING THE EXEMPTION TO PRIMARY RESIDENCES; PROVIDING FOR A LAND VALUE THAT IS NO LESS THAN THE STATEWIDE AVERAGE VALUE OF CLASS FOUR RESIDENTIAL LAND; CREATING APPLICATION CRITERIA; PROVIDING DEFINITIONS; PROVIDING FOR NOTIFICATION TO THE PUBLIC REGARDING THE EXEMPTION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-7-102 AND 15-16-101, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Intangible land value property exemption – application procedure. (1) There is an intangible land value assistance program that provides graduated levels of property tax exemptions to assist owners of primary residences with land values that are disproportionate to the value

of a primary residence and improvements. To be eligible for the exemption, applicants must meet the requirements of this section.

(2) If the total appraised value of the land is equal to or less than 150% of the appraised value of the primary residence and improvements situated on the land, then the land exemption provided in this section does not apply.

(3) Subject to subsection (6), if the total appraised value of the land is greater than 150% of the appraised value of the primary residence and improvements situated on the land, then the land is valued at 150% of the appraised value of the primary residence and improvements situated on the land, subject to the minimum equalization of value requirement in subsection (4), and the remainder of the land value is exempt from taxation.

(4) If the calculation in subsection (3) creates a land value that is less than the statewide average value of land, then the value of the land may not be reduced in an amount that is less than the statewide average value of land multiplied by the acreage of land for the subject property.

(5) This section does not provide an exemption for the primary residence and improvements situated on the land.

(6) (a) A claim for assistance must be filed by March 1 of the tax year for which the exemption is sought, on an application form provided by the department. After an exemption is approved, the applicant remains eligible for the exemption for the remainder of the 2-year valuation cycle provided for in 15-7-111 as long as the property is continually used as a primary residence by the applicant. An applicant who does not apply for assistance during the first year of the valuation cycle may apply during the second year of the cycle.

(b) The application form must contain:

(i) an affirmation that the applicant owns and maintains the land and improvements as the primary residence;

(ii) an affirmation that the land has been owned by the applicant or a family member of the applicant within the third degree of consanguinity for at least 30 consecutive years; and

(iii) any other information required by the department that is relevant to the applicant's eligibility.

(c) When providing information to the department for qualification under this section, applicants are subject to the false swearing penalties established in 45-7-202.

(d) The department may investigate the information provided in an application and an applicant's continued eligibility.

(e) The department may request applicant verification of the primary residence.

(7) As used in this section the following definitions apply:

(a) "Land" means:

(i) parcels of land or lots of not more than 5 acres under single ownership that support the primary residential improvements. The term does not include parcels of land or lots that do not support the primary residential improvements, regardless of whether those parcels or lots are contiguous with or adjacent to the primary residential property.

(ii) subject to the limitations in subsection (7)(a)(i), separately assessed land on which a mobile or manufactured home is located, but only if the mobile or manufactured home and the land are both owned by the applicant.

(b) "Primary residence" means a single-family dwelling:

(i) in which an applicant can demonstrate the applicant lived for at least 7 months of the year for which benefits are claimed;

(ii) that is the only residence for which the land exemption claimed in this section is claimed by the applicant; and

(iii) that is owned or under contract for deed by the applicant.

(c) "Single-family dwelling" means a residential dwelling, manufactured home, trailer, or mobile home. The term does not include a condominium unit or a unit of a multiple-unit dwelling.

(d) "Statewide average value of land" is a value calculated by the department that is equal to the statewide average market value of 1 acre of class four real property described in 15-6-134(1)(a) through (1)(d).

Section 2. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners – appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the *intangible land value assistance program provided for in [section 1], the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;*

(ii) the total amount of mills levied against the property in the prior year; and

(iii) a statement that the notice is not a tax bill.

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection on written or electronic forms provided by the department for that purpose.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the objection may be made only once each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a reduction in the appraised value to be considered for both years of the 2-year appraisal cycle. Any reduction in value resulting from an objection made more than 30 days from the date of the assessment notice will be applicable only for the second year of the 2-year reappraisal cycle.

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made within 30 days from the date on the assessment notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. Any reduction in value resulting from an objection made more than 30 days after the date of the assessment notice applies only for the subsequent remaining years of the 6-year reappraisal cycle.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector, and only if the objector signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; and

(ii) sales data used by the department to value residential property in the property taxpayer's market model area.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The county tax appeal board [department] shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 3. Section 15-16-101, MCA, is amended to read:

"15-16-101. Treasurer to publish notice – manner of publication.

(1) Within 10 days after the receipt of the property tax record, the county treasurer shall publish a notice specifying:

(a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;

(b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty; and

(c) the time and place at which payment of taxes may be made.

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and

assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

- (i) the taxable value of the property;
- (ii) the total mill levy applied to that taxable value;
- (iii) itemized city services and special improvement district assessments collected by the county;
- (iv) the number of the school district in which the property is located;
- (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax; and
- (vi) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the *intangible land value assistance program provided for in [section 1]*, the property tax assistance programs under Title 15, chapter 6, part 3, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341.

(b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete information.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(a)(iii) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Applicability. [This act] applies to tax years beginning after December 31, 2017.

Approved May 25, 2017

CHAPTER NO. 442

[SB 233]

AN ACT REVISING LAWS REGARDING THE AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT RULES RELATING TO THE PROVISION OF MEDICAID SERVICES TO CHILDREN IN FOSTER CARE; PROVIDING THAT THE DEPARTMENT MAY NOT ADOPT RULES THAT EXCLUDE OR RESTRICT FOSTER CHILDREN FROM ACCESSING MEDICAID SERVICES SOLELY BECAUSE THE CHILDREN ARE IN FOSTER CARE; AMENDING SECTIONS 53-2-215, 53-6-113, AND 53-6-402, MCA; DIRECTING THE AMENDMENT OF ARM

37.34.907, 37.40.1002, 37.40.1111, AND 37.86.5102; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in providing Medicaid services, the Department of Public Health and Human Services is treating children with disabilities who are in foster care differently from children with disabilities who are not in foster care; and

WHEREAS, children in foster care are having to take additional steps to receive Medicaid services and, in some cases, Medicaid providers automatically are not providing services to children in foster care; and

WHEREAS, the Legislature intends to revise the Department's rulemaking authority relating to the provision of Medicaid services and to revise existing administrative rules relating to the provision of Medicaid services to provide that foster children may not be excluded or restricted from accessing Medicaid services solely because the children are in foster care.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-2-215, MCA, is amended to read:

"53-2-215. Social Security Act section 1115 waiver. (1) The department may pursue approval from the U.S. department of health and human services for implementation in Montana of a health insurance flexibility and accountability demonstration initiative and other demonstration projects through section 1115 waivers.

(2) The department may implement a demonstration project upon approval of a section 1115 waiver by the U.S. department of health and human services. The department may:

(a) coordinate a demonstration project with a program approved through a section 1915 waiver; or

(b) terminate and subsume in a new section 1115 waiver an existing managed care or access program approved through a section 1915(b) waiver, an optional state plan medicaid service authorized under 53-6-101, an optional state plan eligibility group authorized under 53-6-131, or an existing program approved by a section 1115 waiver, inclusive of the demonstration program authorized by 53-4-202 and Title 53, chapter 4, part 6, that is administered by the department.

(3) The department may amend the existing section 1115 demonstration project authorized in 53-4-601 and 53-6-101 to expand the demonstration project to implement the purposes of this section.

(4) The department may initiate and administer section 1115 waivers to more efficiently apply available state general fund money, other available state and local public and private funding, and federal money to the development and maintenance of medicaid-funded programs of health services and of other public assistance services and to structure those programs or services for more efficient and effective delivery to specific populations.

(5) (a) In establishing programs or services in a demonstration project approved through a section 1115 waiver, the department shall administer the expenditures under each demonstration project within the state spending authority that is available for that demonstration project. The department may limit enrollments in each program within a demonstration project, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through each program when the department determines that expenditures can be reasonably expected to exceed the available state spending authority.

(b) The department shall develop a contingency plan if there is a spending cap as a condition of the waiver and the spending cap is exceeded.

The contingency plan must address the effects on new programs, services, or eligibility groups.

(6) The department may coordinate the state children's health insurance program authorized under Title 53, chapter 4, part 10, with a section 1115 waiver for the purpose of increasing the state funding match available under the waiver and expanding the number of participants in the state children's health insurance program.

(7) The department, subject to the terms and conditions of the section 1115 waiver:

(a) shall establish the eligibility groups based upon the funding principles stated in 53-6-101(2);

(b) may provide medicaid coverage for one or more optional medicaid eligibility groups;

(c) may provide medicaid coverage for one or more specific populations of persons who are not within the federally authorized medicaid eligibility groups but who are within the requirements of subsection (8);

(d) may establish the service coverage, eligibility requirements, financial participation requirements, and other features for the administration and delivery of services to each section 1115 waiver eligibility group;

(e) shall set limits on the number of participants for each section 1115 waiver eligibility group;

(f) shall set limits on the total expenditures under each demonstration project; and

(g) shall set the limits on the total expenditures on the services to be provided to each section 1115 waiver eligibility group.

(8) The categories of persons that the department may consider for establishment as a section 1115 waiver eligibility group include but are not limited to:

(a) low-income parents of children who are eligible to participate in medicaid under 53-6-131 or in the state children's health insurance program authorized under Title 53, chapter 4, part 10;

(b) children who because of limits on enrollment may not be covered through the state children's health insurance program authorized under Title 53, chapter 4, part 10;

(c) children who are eligible to participate in the state children's health insurance program authorized under Title 53, chapter 4, part 10; and

(d) other specific groups of persons who are participants in programs or services funded solely or primarily through state general funds or who the department determines are in need of specific types of health care and related services, such as prescription drugs, reproductive health care, and mental health services, and are without adequate financial means to procure health insurance coverage of those needs.

(9) Children participating in a section 1115 waiver eligibility group or children who would be eligible to participate in the state children's health insurance program are subject to the eligibility criteria applicable under 53-4-1004, except as provided in subsection (10) of this section, for participation in the state children's health insurance program and must receive benefits as provided through the state children's health insurance program under 53-4-1005.

(10) (a) Except as provided in this subsection (10), the eligibility for the section 1115 waiver eligibility groups may not exceed 150% of the federal poverty level.

(b) The department may establish eligibility at greater than 150% but no more than 200% of the federal poverty level for any of the following groups established for purposes of a section 1115 waiver:

- (i) participants in the state children's health insurance program;
- (ii) participants in a group that may be covered under the state children's health insurance program;
- (iii) participants in a family planning program;
- (iv) participants in a group composed of persons previously served through a program funded with state general fund money and other nonmedicaid money; or
- (v) participants in a group composed of persons with a significant need for particular services that are not readily available to that population through insurance products or because of personal financial limitations.

(c) In establishing the eligibility criteria based upon federal poverty levels, the department shall select levels to ensure that the resulting expenditures will remain within the available funding and will conform with the terms and conditions of approval by the U.S. department of health and human services.

(d) The department may adopt additional programmatic and financial eligibility criteria for a section 1115 waiver eligibility group in order to appropriately define the subject population, to limit use for fiscal and programmatic purposes, to prevent improper use, and to conform the administration of the program with the terms and conditions of the section 1115 waiver.

(e) Eligibility criteria applicable to a section 1115 waiver eligibility group need not conform to the criteria applicable to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within the demonstration project.

(11) (a) For each section 1115 waiver eligibility group, the department shall establish the program benefit or benefits to be available to the participants in the group.

(b) Program benefits may be in the form of:

(i) assistance in the payment of health insurance premiums for health care coverage through an employer or other existing group coverage available to the program enrollee;

(ii) assistance in the payment of health insurance premiums for health care coverage that meets a set of defined standards and limitations adopted by the department in consultation with the commissioner of insurance and obtained from participating private insurers or through self-insured pools;

(iii) premium purchase for insurance coverage on behalf of children who are 18 years of age or younger for the defined set of health care and related services adopted by the department for the state children's health insurance program authorized in Title 53, chapter 4, part 10; or

(iv) coverage of a defined set of health care and related services administered directly by the department on a fee-for-service basis.

(c) The department may limit the types of program benefits available to enrollees in a program. For programs in which the department provides for more than one type of program benefit, the department may require that enrollees, either as a whole or on an individual basis based on certain circumstances, use certain types of program benefits in lieu of using other types of program benefits.

(d) The department shall, as necessary to maintain expenditures for a program within the available funding for that program, set monetary limitations on the total benefit amounts available on a periodic basis for an

enrollee through that program, whether that benefit is in the form of premium assistance, premium purchase, or a set of covered services.

(12) The benefits for a section 1115 waiver eligibility group may be in the form of a defined set of covered services consisting of one or more of the mandatory and optional medicaid state plan services specified in 53-6-101 or other health-care related services. The department may select the types of services that constitute a defined set of covered services for a section 1115 waiver eligibility group. The department may provide coverage of a service not specified in 53-6-101 if the department determines the service to be appropriate for the particular section 1115 waiver eligibility group. The department may define the nature, components, scope, amount, and duration of each covered service to be made available to a section 1115 waiver eligibility group. The nature, components, scope, amount, and duration of a covered service made available to a section 1115 waiver eligibility group need not conform to those aspects of that service as defined by the department for delivery as a covered service to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not encompassed within a section 1115 waiver.

(13) The department may adopt financial participation requirements for enrollees in a section 1115 eligibility group to foster appropriate use among enrollees and to maintain the fiscal accountability of the program. The department may adopt financial participation requirements, including but not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The requirements may vary among the section 1115 waiver eligibility groups. In adopting financial participation requirements for enrollees selecting coverage as provided in subsection (11)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible, coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically needy persons for a service pursuant to the state medicaid plan.

(14) (a) The department shall adopt rules as necessary for the implementation of a section 1115 waiver. Rules may include but are not limited to:

(a)(i) designation of programs and activities for implementation of a section 1115 waiver;

(b)(ii) features and benefit coverage of the programs;

(c)(iii) the nature, components, scope, amount, and duration of each program service;

(d)(iv) appropriate insurance products and coverage as benefits;

(e)(v) required enrollee eligibility information;

(f)(vi) enrollee eligibility categories, criteria, requirements, and related measures;

(g)(vii) limits upon enrollment;

(h)(viii) requirements and limitations for service costs and expenditures;

(i)(ix) measures to ensure the appropriateness and quality of services to be delivered;

(j)(x) provider requirements and reimbursement;

(k)(xi) financial participation requirements for enrollees;

(l)(xii) use measures; and

(m)(xiii) other appropriate provisions necessary for administration of a demonstration project and for implementation of the conditions placed upon approval of a section 1115 waiver by the U.S. department of health and human services.

(b) *Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior authorization for a child to access medicaid services if the child would be*

eligible for or able to access the services without prior authorization if the child was not in foster care.

(15) The department shall administer the programs and activities that are subject to a section 1115 waiver in accordance with the terms and conditions of approval by the U.S. department of health and human services. The department may modify aspects of established programs and activities administered by the department as may be necessary to implement a section 1115 waiver as provided in this section.

(16) The department may seek an initial duration and durational extensions for a section 1115 waiver as the department determines appropriate for demonstration and fiscal considerations.

(17) The department shall provide a report to the legislature, as provided in 5-11-210, on the conditions of approval and the status of implementation for each section 1115 waiver approved by the U.S. department of health and human services. For any proposed section 1115 waiver not approved by the U.S. department of health and human services, the department shall provide to the next legislative session a report on the basis for disapproval and an analysis of the fiscal costs and programmatic impacts of serving the persons within the proposed section 1115 waiver eligibility groups through eligibility under one of the optional medicaid eligibility categories established in federal law and authorized by 53-6-131.

(18) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory council, which must include consumer advocates, prior to the submission of the proposal to the federal government.

(19) The department shall present a section 1115 waiver proposal to the house appropriations committee or, during the interim, the children, families, health, and human services interim committee for review and comment at a public hearing prior to the submission of the proposal to the federal government for formal approval and shall also present the section 1115 waiver after final approval from the federal government.

(20) (a) The department shall provide for a public comment period on the proposed section 1115 waiver at least 60 days before the submission of the section 1115 waiver application to the federal government for formal approval.

(b) The department shall give notice of the proposal by announcing the pending submittal, stating its general purpose, and informing the public that information on the proposal is available on the department's website.

(c) The department shall provide for public comment through electronic means or mail and shall provide for a public forum in at least one location at which members of the public can submit views on the proposal. The department shall consider comments received and make any appropriate changes to the waiver request before submitting it to the federal government.

(d) The department shall post on its website the waiver concept paper, formal correspondence regarding a waiver proposal, and the final approved waiver, including documents received from the center for medicare and medicaid services."

Section 2. Section 53-6-113, MCA, is amended to read:

"53-6-113. (Temporary) Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services

are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and
- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(b) The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

- (a) participation in managed care;
- (b) selection and qualifications for providers of managed care; and
- (c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

(10) The department may adopt rules for implementing and administering one or more patient-centered medical home programs. The rules may include but are not limited to provider qualifications, coverage groups, services coverage, measures to ensure the appropriateness and quality of services delivered, payment rates and fees, and utilization measures. In implementing and administering patient-centered medical home programs, the department shall use only health care providers that have been qualified by the commissioner and authorized to use the designation of a patient-centered medical home. The department shall use the standards adopted by the commissioner for patient-centered medical homes under 33-40-105, except for those standards relating to settling payment rates and fees and any standards that may conflict with federal medicaid requirements.

(11) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior authorization for a child to access medicaid services if the child would be eligible for or able to access the services without prior authorization if the child was not in foster care. (Terminates December 31, 2017--sec. 14, Ch. 363, L. 2013.)

53-6-113. (Effective January 1, 2018) Department to adopt rules. (1)

The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and
- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child

support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(b) The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

- (a) participation in managed care;
- (b) selection and qualifications for providers of managed care; and
- (c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

(10) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior authorization for a child to access medicaid services if the child would be eligible for or able to access the services without prior authorization if the child was not in foster care."

Section 3. Section 53-6-402, MCA, is amended to read:

"53-6-402. Medicaid-funded home and community-based services – waivers – funding limitations – populations – services – providers – long-term care preadmission screening – powers and duties of department – rulemaking authority. (1) The department may obtain waivers of federal medicaid law in accordance with section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and administer programs of home and community-based services funded with medicaid money for categories of persons with disabilities or persons who are elderly.

(2) The department may seek and obtain any necessary authorization provided under federal law to implement home and community-based services for seriously emotionally disturbed children pursuant to a waiver of federal law as permitted by section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n(c). The home and community-based services system shall strive to incorporate the following components:

- (a) flexibility in design of the system to attempt to meet individual needs;
- (b) local involvement in development and administration;
- (c) encouragement of culturally sensitive and appropriately trained mental health providers;
- (d) accountability of recipients and providers; and

(e) development of a system consistent with the state policy as provided in 52-2-301.

(3) The department may, subject to the terms and conditions of a federal waiver of law, administer programs of home and community-based services to serve persons with disabilities or persons who are elderly who meet the level of care requirements for one of the categories of long-term care services that may be funded with medicaid money. Persons with disabilities include persons with physical disabilities, chronic mental illness, developmental disabilities, brain injury, or other characteristics and needs recognized as appropriate populations by the U.S. department of health and human services. Programs may serve combinations of populations and subsets of populations that are appropriate subjects for a particular program of services.

(4) The provision of services to a specific population through a home and community-based services program must be less costly in total medicaid funding than serving that population through the categories of long-term care facility services that the specific population would be eligible to receive otherwise.

(5) The department may initiate and operate a home and community-based services program to more efficiently apply available state general fund money, other available state and local public and private money, and federal money to the development and maintenance of medicaid-funded programs of health care and related services and to structure those programs for more efficient and effective delivery to specific populations.

(6) The department, in establishing programs of home and community-based services, shall administer the expenditures for each program within the available state spending authority that may be applied to that program. In establishing covered services for a home and community-based services program, the department shall establish those services in a manner to ensure that the resulting expenditures remain within the available funding for that program. To the extent permitted under federal law, the department may adopt financial participation requirements for enrollees in a home and community-based services program to foster appropriate utilization of services among enrollees and to maintain fiscal accountability of the program. The department may adopt financial participation requirements that may include but are not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The financial participation requirements adopted by the department may vary among the various home and community-based services programs. The department, as necessary, may further limit enrollment in programs, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through a home and community-based services program when the department determines that expenditures for a program are reasonably expected to exceed the available spending authority.

(7) The department may consider the following populations or subsets of populations for home and community-based services programs:

(a) persons with developmental disabilities who need, on an ongoing or frequent basis, habilitative and other specialized and supportive developmental disabilities services to meet their needs of daily living and to maintain the persons in community-integrated residential and day or work situations;

(b) persons with developmental disabilities who are 18 years of age and older and who are in need of habilitative and other specialized and supportive developmental disabilities services necessary to maintain the persons in personal residential situations and in integrated work opportunities;

(c) persons 18 years of age and older with developmental disabilities and chronic mental illness who are in need of mental health services in addition to habilitative and other developmental disabilities services necessary to meet their needs of daily living, to treat their mental illness, and to maintain the persons in community-integrated residential and day or work situations;

(d) children under 21 years of age who are seriously emotionally disturbed and in need of mental health and other specialized and supportive services to treat their mental illness and to maintain the children with their families or in other community-integrated residential situations;

(e) persons 18 years of age and older with brain injuries who are in need, on an ongoing or frequent basis, of habilitative and other specialized and supportive services to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(f) persons 18 years of age and older with physical disabilities who are in need, on an ongoing or frequent basis, of specialized health services and personal assistance and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(g) persons with human immunodeficiency virus (HIV) infection who are in need of specialized health services and intensive pharmaceutical therapeutic regimens for abatement and control of the HIV infection and related symptoms in order to maintain the persons in personal residential situations;

(h) persons with chronic mental illness who suffer from serious chemical dependency and who are in need of intensive mental health and chemical dependency services to maintain the persons in personal or other community-integrated residential situations;

(i) persons 65 years of age and older who are in need, on an ongoing or frequent basis, of health services, personal assistance, and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations; or

(j) persons 18 years of age and older with chronic mental illness who are in need, on an ongoing or frequent basis, of specialized health services and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations.

(8) For each authorized program of home and community-based services, the department shall set limits on overall expenditures and enrollment and limit expenditures as necessary to conform with the requirements of section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and the conditions placed upon approval of a program authorized through a waiver of federal law by the U.S. department of health and human services.

(9) A home and community-based services program may include any of the following categories of services as determined by the department to be appropriate for the population or populations to be served and as approved by the U.S. department of health and human services:

(a) case management services;

(b) homemaker services;

(c) home health aide services;

(d) personal care services;

(e) adult day health services;

(f) habilitation services;

(g) respite care services; and

(h) other cost-effective services appropriate for maintaining the health and well-being of persons and to avoid institutionalization of persons.

(10) Subject to the approval of the U.S. department of health and human services, the department may establish appropriate programs of home and community-based services under this section in conjunction with programs that have limited pools of providers or with managed care arrangements, as implemented through 53-6-116 and as authorized under section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, or in conjunction with a health insurance flexibility and accountability demonstration initiative or other demonstration project as authorized under section 1115 of Title XI of the Social Security Act, 42 U.S.C. 1315.

(11) (a) The department may conduct long-term care preadmission screenings in accordance with section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r.

(b) Long-term care preadmission screenings are required for all persons seeking admission to a long-term care facility.

(c) A person determined through a long-term care preadmission screening to have an intellectual disability or a mental illness may not reside in a long-term care facility unless the person meets the long-term care level-of-care determination applicable to the type of facility and is determined to have a primary need for the care provided through the facility.

(d) The long-term care preadmission screenings must include a determination of whether the person needs specialized intellectual disability or mental health treatment while residing in the facility.

(12) The department may adopt rules necessary to implement the long-term care preadmission screening process as required by section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r. The rules must provide criteria, procedures, schedules, delegations of responsibilities, and other requirements necessary to implement long-term care preadmission screenings.

(13) (a) The department shall adopt rules necessary for the implementation of each program of home and community-based services. The rules may include but are not limited to the following:

- (a)(i) the populations or subsets of populations, as provided in subsection (7), to be served in each program;
- (b)(ii) limits on enrollment;
- (c)(iii) limits on per capita expenditures;
- (d)(iv) requirements and limitations for service costs and expenditures;
- (e)(v) eligibility categories criteria, requirements, and related measures;
- (f)(vi) designation and description of the types and features of the particular services provided for under subsection (9);
- (g)(vii) provider requirements and reimbursement;
- (h)(viii) financial participation requirements for enrollees as provided in subsection (6);
- (i)(ix) utilization measures;
- (j)(x) measures to ensure the appropriateness and quality of services to be delivered; and
- (k)(xi) other appropriate provisions necessary to the administration of the program and the delivery of services in accordance with 42 U.S.C. 1396n and any conditions placed upon approval of a program by the U.S. department of health and human services.

(b) *Unless required by federal law or regulation, the department may not adopt rules that exclude a child from home and community-based services or require prior authorization for a child to access home and community-based services if the child would be eligible for or able to access the home and community-based services without prior authorization if the child was not in foster care.*

(14) The department shall adopt rules for the provision of the fraud prevention training required under 53-6-405, including but not limited to establishing the elements that must be contained in fraud prevention education materials and the models that may be used for the training.

(15) The department shall adopt rules to carry out the cost reporting provisions of 53-6-406, including but not limited to the costs that a provider is required to report to the department, the format of the report, and the deadline for filing the report.”

Section 4. The Department of Public Health and Human Services shall amend ARM 37.34.907 to read:

“37.34.907 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SELECTION AND ENTRY

(1) A person may be placed on the statewide waiting list for consideration for selection and entry into the 0208 Medicaid Home and Community-Based (HCBS) Waiver Program if the person is found eligible for the Developmental Disabilities Program (DDP) service in accordance with ARM 37.34.906.

(2) The DDP will enter the person’s name onto the waiting list in chronological order based upon the date the case manager receives a complete request for services.

(3) The selection for consideration of persons with the same waiting list date will be made through a random selection process by the department.

(4) The DDP designee must notify a person selected for entry into the 0208 HCBS Waiver Program and the person’s case manager in writing within ten working days of selection.

(5) Within five working days from the date of the notification letter the department designee must present all waiver service options available to the person selected and document which providers the person requests to meet and submit to the providers:

- (a) the provider service referral packet;
- (b) the plan of care; and
- (c) other documents, as requested.

(6) A provider must contact the department designee within ten working days from the date the provider service referral packet was submitted to the provider and either:

- (a) offer to serve the person; or
- (b) decline to offer services.

(7) The person must determine which provider(s) he or she will accept services from within five days following the offer(s).

(8) The case manager must:

- (a) document the person’s choice of provider(s);
- (b) obtain the person’s or the person’s legal representative’s signature; and
- (c) maintain the documentation in the person’s file.

(9) Upon acceptance of service(s), the person must begin service(s) within 45 working days from the date of the provider(s) offer to serve the person.

(10) The department may prioritize and select a person who has a life-threatening physical condition, is eligible for DDP services, and that without services would jeopardize their continued existence.

(11) The department reserves the right to select a person from the waiting list based upon emergency criteria if, *except as provided in subsection (11)(b)*, all other service options have been reviewed and do not meet the person’s health and safety needs. The emergency criteria are as follows:

(a) a finding of maltreatment is determined by ~~Child Protective Services or~~ Adult Protective Services;

(b) a finding of maltreatment is determined by Child Protective Services, in which case no other service options need to be reviewed;

~~(b)~~(c) death or inability of the person's primary caregiver to provide care and no alternative caregiver is available; or

~~(c)~~(d) lack of appropriate placement for the person due to loss of housing or imminent discharge from the temporary placement or hospitalization.

(12) A person who is selected for entry into the 0208 HCBS Waiver Program and does not accept waiver services will be removed from the waiting list.

(13) If the person selected for entry into the 0208 HCBS Waiver Program cannot find a provider able or willing to provide services within 90 days from the date of the selection notification letter, the opening is forfeited.

(14) A person discharged from an ICF/IID located in the state of Montana who is eligible for home and community-based services in accordance with ARM 37.34.906 is not subject to the selection criteria and entry procedures otherwise stated in this rule. The department in its discretion may provide the person with a placement in the 0208 HCBS Waiver Program."

Section 5. The Department of Public Health and Human Services shall amend ARM 37.40.1002 to read:

"37.40.1002 AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS

(1) To qualify for Community First Choice Services (CFCS), a person must:

(a) be Medicaid eligible;

(b) meet the level of care criteria found at ARM 37.40.205(1); and

(c) demonstrate a medical and functional need for assistance with activities of daily living.

(2) CFCS includes assistance with the following activities:

(a) activities of daily living;

(b) instrumental activities of daily living;

(c) medical escort services;

(d) skill acquisition, maintenance, and enhancement; and

(e) personal emergency response systems.

(3) Instrumental activities of daily living are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living. Instrumental activities of daily living may not account for more than one-third of the total time allocated per two-week period for CFCS or a maximum of ten hours per two-week time period, whichever is less.

(4) Medical escort services are only authorized when the member has demonstrated a medical and functional need for CFCS. Medical escort services must be directly related to a member's medical and functional need for assistance en route to, or at the Medicaid reimbursable medical service, and are available when a family member or caregiver is unable to accompany the member.

(5) Skill acquisition, maintenance, and enhancement services are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living. The service may be authorized if a member is expected to achieve full independence in skill acquisition within a 90-day time period. A skill acquisition letter of endorsement signed by a skill acquisition advocate is required prior to authorization of the service.

(6) Personal emergency response system services (PERS) are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living.

(7) CFCS, except for medical escort services, shopping, laundry, and community integration, will be provided in the member's home.

(8) CFCS may not typically be provided in group home settings unless prior authorized by the department. Group home settings include ~~licensed youth foster homes~~, mental health group homes, and adult intensive community home services. CFCS may be authorized when the person's medical needs are beyond the scope of services normally provided by programs funding services in the group setting. ~~For example, a person requiring additional assistance because of an acute medical episode or post-hospitalization period may receive CFCS in a youth foster home setting.~~

(9) CFCS is not available to the following:

(a) persons who reside in a hospital, hospitals providing long-term care, or a long-term care facility as defined in 50-5-101, MCA, and licensed under 50-5-201, MCA;

(b) persons who reside in assisted living or adult foster homes, as defined in 50-5-225, MCA, and licensed under 50-5-227, MCA;

(c) persons who live in homes which are not safely accessible by normal modes of transportation.

(10) CFCS may not include any skilled services that require professional medical training unless otherwise permitted under 37-8-103, MCA, or ARM 24.159.1616.

(11) CFCS do not include services which maintain an entire household. CFCS do not include:

(a) cleaning floors and furniture in areas that members do not use or occupy;

(b) laundering clothing or bedding that members do not use;

(c) supervision, respite care, babysitting, or visiting;

(d) maintenance of animals unless the animal is a certified service animal specifically trained to meet the health and safety needs of the member;

(e) home and outside maintenance; and

(f) meal preparation for other family members.

(12) CFCS provided by a member of the member's immediate family is not CFCS for the purposes of the Medicaid program, and is not eligible for reimbursement. Immediate family member includes the following:

(a) a spouse; and

(b) a natural, adoptive, or foster parent of a minor child.

(13) CFCS must be delivered by a CFCS personal care attendant employed by an enrolled Medicaid provider that has met the criteria established by the department for the delivery of CFCS as referenced in ARM 37.40.1017 and 37.40.1018.

(14) CFCS may not be provided to relieve a parent of child-caring or other legal responsibilities. CFCS for children with disabilities may be appropriate when the parent is unqualified or otherwise unable to provide services and the child is at risk of institutionalization unless the services are provided."

Section 6. The Department of Public Health and Human Services shall amend ARM 37.40.1111 to read:

"37.40.1111 AGENCY-BASED AND SELF-DIRECTED PERSONAL ASSISTANCE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS

(1) To qualify for Personal Assistance Services (PAS), a person must:

(a) be Medicaid eligible; and

(b) demonstrate a medical and functional need for assistance with activities of daily living.

(2) PAS include assistance with the following activities:

- (a) activities of daily living;
- (b) instrumental activities of daily living; and
- (c) medical escort services.

(3) Instrumental activities of daily living are only authorized when the member demonstrates a medical and functional need to receive assistance with activities of daily living. Instrumental activities of daily living may not account for more than one-third of the total time allocated per two-week period for PAS or a maximum of six hours per two-week time period, whichever is less.

(4) Medical escort services are only authorized when the member has demonstrated a medical and functional need for PAS. Medical escort services must be directly related to a member's medical and functional need for assistance en route to, or at the Medicaid reimbursable medical service, and are available when a family member or caregiver is unable to accompany the member.

(5) PAS, except for medical escort services, shopping, and laundry, will be provided in the member's home.

(6) PAS may not typically be provided in group home settings unless prior authorized by the department. Group home settings include ~~licensed youth foster homes~~, mental health group homes; and adult intensive community home services. PAS may be authorized when the person's medical needs are beyond the scope of services normally provided by programs funding services in the group setting. ~~For example, a person requiring additional assistance because of an acute medical episode or post-hospitalization period may receive PAS in a youth foster home setting.~~

(7) PAS are not available to the following:

(a) persons who reside in a hospital, hospitals providing long-term care, or a long-term care facility as defined in 50-5-101, MCA, and licensed under 50-5-201, MCA;

(b) persons who reside in assisted living or adult foster homes, as defined in 50-5-225, MCA, and licensed under 50-5-227, MCA; or

(c) persons who live in homes which are not safely accessible by normal modes of transportation.

(8) PAS may not include any skilled services that require professional medical training unless otherwise permitted under 37-8-103, MCA, or ARM 24.159.1616.

(9) PAS do not include services which maintain an entire household. PAS do not include:

(a) cleaning floors and furniture in areas that members do not use or occupy;

(b) laundering clothing or bedding that members do not use;

(c) supervision, respite care, babysitting, or visiting;

(d) maintenance of animals unless the animal is a certified service animal specifically trained to meet the health and safety needs of the member;

(e) home and outside maintenance; and

(f) meal preparation for other family members.

(10) PAS provided by a member of the member's immediate family are not PAS for the purposes of the Medicaid program, and are not eligible for reimbursement. Immediate family member includes the following:

(a) a spouse; and

(b) a natural, adoptive, or foster parent of a minor child.

(11) PAS must be delivered by a PAS personal care attendant employed by an enrolled Medicaid provider that has met the criteria established by the department for the delivery of PAS as referenced in ARM 37.40.1126 and 37.40.1127.

(12) PAS may not be provided to relieve a parent of child-caring or other legal responsibilities. PAS for children with disabilities may be appropriate when the parent is unqualified or otherwise unable to provide services and the child is at risk of institutionalization unless the services are provided.”

Section 7. The Department of Public Health and Human Services shall amend ARM 37.86.5102 to read:

“37.86.5102 PASSPORT TO HEALTH PROGRAM: DEFINITIONS

(1) “Case management” means directing and overseeing the delivery of certain services to an enrollee.

(2) “Clinic” means a federally qualified health center, a rural health clinic, an Indian health service clinic on a reservation, or any other clinic as defined in ARM 37.86.1401 which can meet the requirements of ARM 37.86.5111.

(3) “Emergency service” means, as defined at ARM 37.82.102(11), inpatient and outpatient services that are necessary to treat an emergency medical condition.

(4) “Emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(a) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(b) serious impairment to bodily functions; or

(c) serious dysfunction of any bodily organ or part.

(5) “Enroll” means to choose a primary care provider.

(6) “Enrollee” means a Medicaid member participating in the program and who is enrolled with a primary care provider under the program.

(7) “Exempt” means a Medicaid member who is:

(a) eligible for managed care but able to establish that participating would be a hardship;

(b) enrolled in a health maintenance organization that provides case management services;

(c) unable to find a primary care provider willing to provide case management; or

(d) residing in a county in which there are not enough primary care providers to serve the Medicaid population required to participate in the program. The department has the discretion to determine hardship and to place time limits on all exemptions described in (a) through (d) on a case-by-case basis.

(8) “Ineligible” means a Medicaid member who is not eligible to participate in a managed care program, such as the Passport Program, but is eligible for regular Medicaid. The following categories of members are ineligible for the Passport Program:

(a) eligible for Medicaid with a spend down (medically needy);

(b) living in a nursing home or institutional setting;

(c) receiving Medicaid for less than three months;

(d) eligible for Medicare;

(e) eligible for Medicaid adoption assistance or guardianship;

~~(f) eligible for Medicaid foster care;~~

~~(g)(f)~~ retroactive Medicaid eligibility;

~~(h)(g)~~ receiving Medicaid home and community-based services for persons who are aged or disabled;

~~(i)(h)~~ eligible for Plan First; and

~~(j)(i)~~ receiving Medicaid under a presumptive eligibility program.

(9) “Medical care” means care provided to meet the medical and medically related needs of a person.

(10) “Participate” means compliance with the requirements of the program.

(11) “Passport to Health Program” or “the program” means the primary care case management (PCCM) program for Medicaid members.

(12) “Primary care” means medical care provided at a person’s first point of contact with the health care system, except for emergencies. It includes treatment of illness and injury, health promotion and education, identification of persons at special risk, early detection of serious disease, promotion of preventive health care, and referral to specialists when appropriate.

(13) “Primary care case management” or “managed care” means promoting the access to, coordination of, quality of, and appropriate use of medical care, and containing the costs of medical care by having an enrollee obtain certain medical care from and through a primary care provider.

(14) “Primary care provider” means a physician, clinic, or midlevel practitioner other than a certified registered nurse anesthetist that is responsible by agreement with the department for providing primary care case management to enrollees in the Passport to Health Program.

(15) “Referral” means the approval by the Passport enrollee’s primary care provider for the delivery by another provider of a service(s) that requires Passport referral. Referral is the provision of the primary care provider’s Passport referral number to the other provider. The primary care provider shall establish the parameters of the referral.

(16) “Team Care” means a program for members identified as excessive or inappropriate utilizers of the Medicaid program as set forth in ARM 37.86.5303.”

Section 8. Implementation. The department shall implement [this act] within existing resources.

Section 9. Effective date. [This act] is effective July 1, 2017.

Approved May 25, 2017

CHAPTER NO. 443

[SB 366]

AN ACT PROVIDING FOR A NEW DRIVER’S LICENSE OR IDENTIFICATION CARD TO COMPLY WITH THE FEDERAL REAL ID ACT OF 2005; PROVIDING THAT APPLICATION FOR A REAL ID-COMPLIANT DRIVER’S LICENSE OR IDENTIFICATION CARD IS VOLUNTARY; PROVIDING FEES; EXTENDING RULEMAKING AUTHORITY; PROVIDING FOR APPROPRIATIONS; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ENTER INTO A LOAN FOR IMPLEMENTATION OF THE REAL ID ACT; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTIONS 17-5-2001 AND 61-5-128, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. REAL ID-compliant driver’s license or identification card – voluntary application. (1) The department shall issue a Montana driver’s license or identification card that complies with the requirements of the federal REAL ID Act of 2005, Public Law 109-13, to each qualifying applicant.

(2) (a) When required to obtain a Montana driver’s license or identification card, a person may choose to apply for either a standard driver’s license or

identification card, or for a REAL ID-compliant driver's license or REAL ID-compliant identification card.

(b) A person may not hold a valid standard driver's license or identification card and a valid REAL ID-compliant driver's license or identification card at the same time.

(3) (a) A REAL ID-compliant driver's license issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard driver's license issued pursuant to this chapter.

(b) A REAL ID-compliant identification card issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard identification card issued pursuant to Title 61, chapter 12, part 5, and this chapter.

(4) (a) In addition to the fees charged to apply for or renew a standard driver's license under 61-5-111(6), and the fees charged to apply for a standard identification card under 61-12-504, the department may charge the following additional fees:

(i) for a person who is applying for a REAL ID-compliant driver's license or identification card during a renewal period specified in 61-5-111(3)(c), the additional fee is \$25;

(ii) for a person who is applying for a REAL ID-compliant driver's license or identification card prior to the renewal period specified in 61-5-111(3)(c), the additional fee is \$50; and

(iii) for a person who renews a standard driver's license or a standard identification card under 61-5-111(3)(c) between June 1, 2017, through December 31, 2017, and is applying for a REAL ID-compliant driver's license or identification card between January 1, 2018, and June 30, 2018, the additional fee is \$25.

(b) The fees collected under this subsection (4) must be deposited in the state special revenue fund to be used to fund the equipment and staffing necessary to provide REAL ID-compliant driver's licenses and identification cards.

Section 2. Section 17-5-2001, MCA, is amended to read:

"17-5-2001. Loans to state agencies. (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and

(b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$28.5 million, payable over a term not to exceed 15 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle

information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) *The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$4.6 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system, and other associated costs, for the implementation of the REAL ID Act of 2005. Loans are payable from the money from the state special revenue fund provided for in [section 1(4)(b)].*"

Section 3. Section 61-5-128, MCA, is amended to read:

"61-5-128. Legislative finding and direction to state agency not to implement REAL ID Act. (1) ~~The legislature finds that the enactment into law by the U.S. congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution.~~

(2) ~~The state of Montana will not shall participate in the implementation of the REAL ID Act of 2005, Public Law 109-13. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department."~~

Section 4. Appropriations. (1) For the biennium beginning July 1, 2017, there is appropriated \$75,000 from the state special revenue fund referenced in [section 1(4)(b)] to the motor vehicle division of the department of justice for providing information to the public about [this act].

(2) For the biennium beginning July 1, 2017, there is appropriated \$800,000 from the state special revenue fund referenced in [section 1(4)(b)] to the motor vehicle division of the department of justice for reprogramming information technology systems and modifying systems to implement [this act].

(3) For the fiscal year beginning July 1, 2017, there is appropriated \$1.852 million from the state special revenue fund referenced in [section 1(4)(b)] to the motor vehicle division of the department of justice for operating expenses related to the implementation of [this act].

(4) For the fiscal year beginning July 1, 2018, there is appropriated \$1.852 million from the state special revenue fund referenced in [section 1(4)(b)] to the motor vehicle division of the department of justice for operating expenses related to the implementation of [this act].

Section 5. Legislative intent. It is the intent of the legislature that the department of justice use modified full-time equivalent positions to implement [this act].

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to [section 1].

Section 7. Contingent voidness. If before January 1, 2018, the state of Montana receives an extension from compliance with the REAL ID Act of 2005, Public Law 109-13, from the department of homeland security, the appropriation in [section 4(3)] is void.

Section 8. Contingent voidness. If the REAL ID Act of 2005, Public Law 109-13, is repealed or if the federal government notifies the state of Montana that compliance with the REAL ID Act is not required, then [this act] is void.

Section 9. Effective date – contingency. (1) Except as provided in subsection (2), [this act] is effective January 1, 2018.

(2) If before January 1, 2018, the state of Montana receives an extension from compliance with the REAL ID Act of 2005, Public Law 109-13, from the department of homeland security, [this act] is effective January 1, 2019. Notification of the extension must be sent to the Montana department of justice and the code commissioner.

Approved May 25, 2017

CHAPTER NO. 444

[SB 132]

AN ACT REPEALING THE TERMINATION DATE FOR THE EXEMPTION FOR CERTAIN AIR AND WATER POLLUTION CONTROL AND CARBON CAPTURE EQUIPMENT AND FOR THE REDUCTION IN VALUE FOR CARBON TRANSPORTATION AND SEQUESTRATION EQUIPMENT; REPEALING SECTIONS 4 AND 7, CHAPTER 407, LAWS OF 2015.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Sections 4 and 7, Chapter 407, Laws of 2015, are repealed.

Approved May 27, 2017

CHAPTER NO. 445

[SB 166]

AN ACT ADOPTING THE ENHANCED NURSE LICENSURE COMPACT; PROVIDING RULEMAKING AUTHORITY; REPEALING SECTIONS 37-8-451 AND 37-8-452, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enhanced nurse licensure compact – enactment. The Enhanced Nurse Licensure Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth below.

Article 1. Findings and Declaration of Purpose

(1) The party states find that:

(a) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(b) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(c) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(d) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(e) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
(f) uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(2) The general purposes of this compact are to:

(a) facilitate the states' responsibility to protect the public's health and safety;

(b) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(c) facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(d) promote compliance with the laws governing the practice of nursing in each jurisdiction;

(e) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(f) decrease redundancies in the consideration and issuance of nurse licenses; and

(g) provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II. Definitions

As used in this compact:

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(2) "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

(3) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(4) "Current significant investigative information" means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(5) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(6) "Home state" means the party state that is the nurse's primary state of residence.

(7) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(8) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(9) “Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

(10) “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s practice laws.

(11) “Party state” means any state that has adopted this compact.

(12) “Remote state” means a party state, other than the home state.

(13) “Single-state license” means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(14) “State” means a state, territory, or possession of the United States and the District of Columbia.

(15) “State practice laws” means a party state’s laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. “State practice laws” does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Article III. General Provisions and Jurisdiction

(1) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(2) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state’s criminal records.

(3) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(a) meets the home state’s qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(b) (i) has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prec licensure education program; or

(ii) has graduated from a foreign RN or LPN/VN prec licensure education program that:

(A) has been approved by the authorized accrediting body in the applicable country; and

(B) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prec licensure education program;

(c) has, if a graduate of a foreign prec licensure education program not taught in English or if English is not the individual’s native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

(d) has successfully passed an NCLEX-RN® or NCLEX-PN® examination or recognized predecessor, as applicable;

(e) is eligible for or holds an active, unencumbered license;

(f) has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state’s criminal records;

(g) has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(h) has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(i) is not currently enrolled in an alternative program;

(j) is subject to self-disclosure requirements regarding current participation in an alternative program; and

(k) has a valid United States social security number.

(4) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(5) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

(6) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(7) (a) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that a nurse, who changes primary state of residence after this compact's effective date, must meet all applicable requirements of subsection (3) of Article III to obtain a multistate license from a new home state.

(b) A nurse who fails to satisfy the multistate licensure requirements in subsection (3) of Article III due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission of nurse licensure compact administrators (Commission).

Article IV. Applications for Licensure in a Party State

(1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

(4) The nurse may apply for licensure in advance of a change in primary state of residence.

(5) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(6) If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

Article V. Additional Authorities Invested in Party State Licensing Boards

(1) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(a) take adverse action against a nurse's multistate licensure privilege to practice within that party state. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(b) issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(c) complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(d) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence is located.

(e) obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks, and use the results in making licensure decisions;

(f) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse; and

(g) take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

Article VI. Coordinated Licensure Information System and
Exchange of Information

(1) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials), and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(6) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

- (a) identifying information;
- (b) licensure data;
- (c) information related to alternative program participation; and

(d) other information that may facilitate the administration of this compact, as determined by commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

Article VII. Establishment of the Interstate Commission of
Nurse Licensure Compact Administrators

(1) The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators:

(a) The commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings:

(a) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. The executive director provided for in 37-8-204 shall serve as the administrator of this compact for the state of Montana. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(i) noncompliance of a party state with its obligations under this compact;

(ii) the employment, compensation, discipline, or other personnel matters, practices or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

(iii) current, threatened, or reasonably anticipated litigation;

(iv) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(v) accusing any person of a crime or formally censuring any person;

(vi) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) disclosure of investigatory records compiled for law enforcement purposes;

(ix) disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(x) matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(a) establishing the fiscal year of the commission;

(b) providing reasonable standards and procedures:

(i) for the establishment and meetings of other committees; and

(ii) governing any general or specific delegation of any authority or function of the commission;

(c) providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(d) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(e) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

(f) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the commission.

(5) The commission shall maintain its financial records in accordance with the bylaws.

(6) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(7) The commission shall have the following powers:

(a) to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states, except that the rules may not alter qualifications for a state licensure or scope of practice.

(b) to bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(c) to purchase and maintain insurance and bonds;

(d) to borrow, accept, or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

(e) to cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space, or other resources;

(f) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(g) to accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(h) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(i) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(j) to establish a budget and make expenditures;

(k) to borrow money;

(l) to appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(m) to provide and receive information from, and to cooperate with, law enforcement agencies;

(n) to adopt and use an official seal; and

(o) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(8) Financing of the commission:

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(c) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the

report of the audit shall be included in and become part of the annual report of the commission.

(9) Qualified defense and indemnification:

(a) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(b) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

Article VIII. Rulemaking

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(3) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) on the website of the commission; and

(b) on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rulemaking shall include:

(a) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) the text of the proposed rule or amendment, and the reason for the proposed rule;

(c) a request for comments on the proposed rule from any interested person; and

(d) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(5) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The commission shall publish the place, time, and date of the scheduled public hearing.

(a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(8) If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of commission or party state funds; or

(c) meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(12) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Article IX. Oversight, Dispute Resolution, and Enforcement

(1) Oversight:

(a) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(b) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such a proceeding to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination:

(a) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(i) provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and

(ii) provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be

given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(d) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) Dispute resolution:

(a) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and non-party states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) (i) In the event the commission cannot resolve disputes among party states arising under this compact the party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(4) Enforcement:

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the U.S. district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Article X. Effective Date, Withdrawal, and Amendment

(1) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this compact that also were parties to the prior nurse licensure compact superseded by this compact, (prior compact) shall be deemed to have withdrawn from said prior compact within six (6) months after the effective date of this compact.

(2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(3) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(4) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(5) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

(6) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(7) Representatives of non-party states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

(8) Nothing in this compact shall be construed to supersede state labor laws or relieve any employer from complying with statutory provisions.

Article XI. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

37-8-451. Nurse licensure compact -- enactment.

37-8-452. Nurse licensure compact -- supplemental provisions.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 8, and the provisions of Title 37, chapter 8, apply to [section 1].

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2017.

(2) [Section 2] is effective January 1, 2019.

Approved May 27, 2017

CHAPTER NO. 446

[SB 293]

AN ACT REVISING THE INTEREST THAT MAY BE AWARDED ON CIVIL JUDGMENTS; AMENDING SECTIONS 25-9-205 AND 27-1-210, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-9-205, MCA, is amended to read:

“25-9-205. Amount of interest. (1) (a) Except as provided in subsection (2), interest is payable on judgments recovered in the courts of this state and on the cost incurred to obtain or enforce a judgment at the rate of 10% per year interest is payable on judgments recovered in the courts of this state and on the cost incurred to obtain or enforce a judgment at a rate equal to the rate for bank prime loans published by the federal reserve system in its statistical release H.15 Selected Interest Rates or in any publication that may supersede it on the day judgment is entered, plus 3%. The interest may not be compounded.

(b) The rate for bank prime loans established in subsection (1)(a) must be set as of January 1 of each year and remain in effect until December 31 of each year.

(2) Interest on a judgment recovered in the courts of this state involving a contractual obligation that specifies an interest rate must be paid at the rate specified in the contractual obligation.”

Section 2. Section 27-1-210, MCA, is amended to read:

“27-1-210. Interest on torts. (1) (a) Subject to subsection (2), in an action for recovery on an injury as defined in 27-1-106, a prevailing claimant is entitled to interest at a rate of 10% equal to the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates, or in any publication that may supersede it, on the day judgment is entered, plus 3%, on any claim for damages awarded that are capable of being made certain by calculation, beginning from the date 30 days after the claimant presented a written statement to the opposing party or the party’s agent stating the claim and how the specific sum was calculated.

(b) The rate for bank prime loans established in subsection (1)(a) must be set as of January 1 of each year and remain in effect until December 31 of each year.

(2) The interest provisions of subsection (1) do not apply to damages not capable of being made certain by calculation, including but not limited to future damages until the damages are incurred and damages for:

- (a) pain and suffering;
- (b) injury to credit, reputation, or financial standing;
- (c) mental anguish or suffering;
- (d) exemplary or punitive damages;
- (e) loss of established way of life;
- (f) loss of consortium; and
- (g) attorney fees.

(3) The jury is to be advised by the court that the court will determine the amount of prejudgment interest due, if any, on any judgment rendered.

(4) Any payment by a party of a claim or interest on a claim as set forth in subsection (1) is not an admission of liability and may not be made known to the jury.”

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective July 1, 2017.

Section 6. Applicability. [This act] applies to judgments that are entered on or after July 1, 2017.

Approved May 27, 2017

RESOLUTIONS

Adopted by the

SIXTY-FIFTH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 2, 2017, through April 28, 2017

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

House Joint Resolutions

HOUSE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE NEEDS AND COSTS OF PROGRAMS TO PROVIDE FOR STUDENTS WITH SPECIAL NEEDS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

WHEREAS, the 2015-2016 School Funding Interim Commission examined several issues related to the costs of educational programs to provide for students with special needs, as defined in 20-9-309, and determined that these issues warrant further study.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the needs and costs for programs to provide for students with special needs, as defined in 20-9-309, such as:

- (1) children with disabilities, as defined in 20-7-401;
- (2) at-risk students, as defined in 20-1-101;
- (3) students with limited English proficiency;
- (4) children who are qualified for services under 29 U.S.C. 794; and
- (5) gifted and talented children, as defined in 20-7-901.

BE IT FURTHER RESOLVED, that the study:

(1) review existing studies of funding special education in Montana and their conclusions and recommendations;

(2) review best practices for programs serving students with special needs;

(3) review the current funding mechanisms for programs serving students with special needs;

(4) examine recent expenditure patterns for programs serving students with special needs;

(5) review current programs utilized by Montana schools to serve students with special needs;

(6) investigate alternative funding mechanisms for programs serving students with special needs, including mechanisms used by other states;

(7) consider whether alternative funding mechanisms would provide a better match between funding levels for special education and actual costs of the mandated services;

(8) consider whether alternative funding mechanisms would prevent tendencies to overidentify special education students or elevate levels of service beyond the areas of need in order to receive more funding;

(9) consider whether alternative funding mechanisms would enhance the development of the full educational potential or the equality of educational opportunity for students with special needs; and

(10) examine any other aspect related to the educational needs of students with special needs as determined by the assigned committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted February 18, 2017

HOUSE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE 138TH ANNIVERSARY OF THE FORT ROBINSON BREAKOUT AND COMMENDING PARTICIPANTS IN THE ANNUAL FORT ROBINSON MEMORIAL BREAKOUT RUN.

WHEREAS, in 1877, the United States relocated hundreds of Cheyenne to a southern reservation in Oklahoma from which, after being beset by starvation and illness, Chiefs Dull Knife and Little Wolf and their followers escaped in 1878 to return to their homeland in Montana; and

WHEREAS, Chief Dull Knife's band was forced to surrender at Fort Robinson, Nebraska, while Chief Little Wolf and his band made it to Fort Keogh near modern day Miles City; and

WHEREAS, on the cold winter morning of January 9, 1879, after days of imprisonment without food or water, Chief Dull Knife and more than 100 Cheyenne escaped from the barracks at Fort Robinson to continue their long and dangerous journey back to Montana; and

WHEREAS, in returning to their homeland, many Cheyenne sacrificed their lives; and

WHEREAS, the annual Fort Robinson Memorial Breakout Run, held on the anniversary of the Fort Robinson Breakout, honors the spirit of the Cheyenne people, as young runners retrace the historic 400-mile trek through Nebraska, South Dakota, Wyoming, and Montana; and

WHEREAS, the Memorial Breakout Run gives young members of the Northern Cheyenne tribe a chance to understand their peoples' history of perseverance and strength and to honor the journey and sacrifice of their ancestors; and

WHEREAS, the Cheyenne people, who are cherished members of the unique fabric of cultures and history of Montana, have carried on their tradition of dedication and sacrifice through 138 years of unbroken military service to the United States, beginning in 1879 when Chief Little Wolf and his band served as scouts at Fort Keogh and continuing with Cheyenne tribal members serving in every major U.S. conflict since, including in Iraq and Afghanistan; and

WHEREAS, the 21st annual Fort Robinson Memorial Breakout Run begins January 9, 2017, with runners passing through Carter, Powder River, Rosebud, and Bighorn Counties.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognizes the historical significance of the struggles that led to the Fort Robinson Breakout and commends the young men and women who embrace severe weather, aching bodies, and fatigue to retrace the historic journey of their ancestors during the annual Fort Robinson Memorial Breakout Run.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Northern Cheyenne Tribal Council.

Adopted February 15, 2017

HOUSE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY OF METHAMPHETAMINE USE AND ILLEGAL USE OF OPIOIDS IN MONTANA.

WHEREAS, law enforcement agencies are reporting an increase in the number of arrests involving methamphetamine, with the state Division of Criminal Investigation reporting that it handled 232 methamphetamine cases in 2015, compared with 68 in 2010; and

WHEREAS, the increased use of methamphetamine in Montana is leading to corresponding increases in law enforcement investigations, district court caseloads, jail and prison populations, and foster care placements, as well as a growing need for treatment services; and

WHEREAS, the number of child abuse and neglect cases filed in district courts across Montana increased from 1,006 in 2009 to 2,433 in 2016, with officials attributing much of the increase to methamphetamine use by parents; and

WHEREAS, the Protect Montana Kids Commission report to the Governor in May 2016 noted that more than 1,000 of the 3,000 children in foster care in 2015 were placed in foster care because of methamphetamine use by their parents and that opioid addiction and illegal drug use are factors contributing to children experiencing child abuse and neglect; and

WHEREAS, state and local agencies are struggling to deal with the increased demand for services due to methamphetamine use; and

WHEREAS, methamphetamine use has an unquantifiable effect on the physical, mental, and social well-being of not only methamphetamine users but also their family members.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or committees, pursuant to section 5-5-217, MCA, to review:

(1) the extent of methamphetamine use and illegal use of opioids in Montana;

(2) the degree to which methamphetamine use and illegal use of opioids has affected services provided by law enforcement, the judiciary, state and local government agencies, and programs that work with individuals involved with methamphetamine use or illegal use of opioids or family members impacted by use of the drugs;

(3) the treatment available for methamphetamine use or illegal use of opioids, including how the course of treatment and availability of treatment affects an individual's ability to be reunified with children who have been removed from the home; and

(4) the efforts being undertaken by law enforcement, the judiciary, and state and local governments to reduce methamphetamine use and illegal use of opioids and mitigate their impacts on Montanans and on state and local government agencies.

BE IT FURTHER RESOLVED, that the committee or committees develop recommendations for:

(1) reducing methamphetamine use and illegal use of opioids, including prevention and treatment efforts;

(2) mitigating the impacts of methamphetamine use and illegal use of opioids on Montanans and their families; and

(3) improving collaboration and cooperation among state and local government agencies in addressing methamphetamine use and illegal use of opioids and their impacts.

BE IT FURTHER RESOLVED, that the study include representatives of the Department of Public Health and Human Services, the Department of Corrections, the Department of Justice, the Office of State Public Defender, district court judges, county attorneys, local law enforcement agencies, local government, and drug treatment programs and other entities that offer services to individuals involved with or impacted by the use of methamphetamine or the illegal use of opioids.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee or committees, be reported to the 66th Legislature.

Adopted April 22, 2017

HOUSE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO RELEASE CERTAIN WILDERNESS STUDY AREAS IN MONTANA FROM CONSIDERATION FOR INCLUSION IN THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

WHEREAS, the 95th Congress passed the Montana Wilderness Study Act of 1977; and

WHEREAS, the Montana Wilderness Study Act required the Secretary of Agriculture to review certain lands within 5 years to determine suitability for preservation as wilderness and report the findings to the President; and

WHEREAS, almost 663,000 acres of land in Montana are designated under the Montana Wilderness Study Act, including the:

(1) West Pioneer Wilderness Study Area comprising approximately 151,000 acres;

(2) Blue Joint Wilderness Study Area comprising approximately 61,000 acres;

(3) Sapphire Wilderness Study Area comprising approximately 94,000 acres;

(4) Ten Lakes Wilderness Study Area comprising approximately 34,000 acres;

(5) Middle Fork Judith Wilderness Study Area comprising approximately 81,000 acres;

(6) Big Snowies Wilderness Study Area comprising approximately 91,000 acres; and

(7) Hyalite-Porcupine-Buffalo Horn Wilderness Study Area comprising approximately 151,000 acres; and

WHEREAS, the 5-year period for review mandated by the Montana Wilderness Study Act expired in 1982; and

WHEREAS, the vast majority of Montana lands identified in the Montana Wilderness Study Act have never been formally recommended by the Secretary of Agriculture for inclusion in the National Wilderness Preservation System and no law has been signed by the President to designate these lands as wilderness; and

WHEREAS, these Montana lands are in legal limbo, a situation that causes extensive federal litigation as to what uses of the lands are appropriate and, in turn, places a burden on federal court resources; and

WHEREAS, uncertainty and wide swings in Executive Branch philosophy regarding the administration of these lands are costing the public millions of dollars as forest assets burn and deteriorate and as investments in forest road construction and improvements are being deliberately destroyed; and

WHEREAS, administrative decisions and preservationist lawsuits have progressively reduced access to public lands for forest managers and the public; and

WHEREAS, the long-term sustainability of public lands depends on good stewardship and professional scientific site-specific management of forest resources; and

WHEREAS, Montana's historic heritage, customs, and culture are linked to the proper stewardship and use of the state's natural resources; and

WHEREAS, these lands are defacto wilderness in lieu of congressional action, a situation that has resulted in a waste of forest assets, no management of public forests, and a harmful reduction in forest road construction and multiple-use access improvements; and

WHEREAS, the failure by Congress to release the lands locked up by the Montana Wilderness Study Act of 1977 severely harms agriculture, timber harvesting, and multiple-use interests, as well as Montana communities and Montana families economically supported by those activities; and

WHEREAS, it is the consensus of the Montana Legislature that more than sufficient time has passed for the study of these lands as to their suitability for preservation as wilderness to be completed under the Montana Wilderness Study Act; and

WHEREAS, national forest lands released from wilderness study would still be subject to the National Forest Management Act, which requires extensive public involvement as the agency develops and updates plans for the management and use of resources in each forest; and

WHEREAS, the Montana Legislature on behalf of the citizens of the state assert that the time is ripe for final disposition of these lands.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature supports scientific adaptive management to implement the multiple-use concept of public land use as mandated by the Multiple-Use Sustained Yield Act of 1960, to ensure the protection and improvement of forest health, and to maintain and improve the sustainability of federal forests located in Montana.

BE IT FURTHER RESOLVED, that the United States Congress enact legislation to release all wilderness study areas identified and specified in the Montana Wilderness Study Act of 1977 in order to secure the rights of Montana citizens to use these public lands for public purposes, including for purposes of multiple recreation use, unless Congress confirms a study area for inclusion in the National Wilderness Preservation System.

BE IT FURTHER RESOLVED, that Congress:

(1) release all wilderness study areas and implement the concept of multiple use in order to fulfill the federal mandate as required by the Forest Management Act of 1897 to manage the national forests to "improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States"; or

(2) consider redesignating the wilderness study areas as national recreation areas or national conservation areas.

BE IT FURTHER RESOLVED, that in its deliberations, Congress consider the land management alternatives in view of the Forest Management Act of 1897 in conjunction with the 2007 water compact between the state of Montana and the U.S. Department of Agriculture Forest Service since land management directly impacts the volume, quantity, and timing of water flows from watersheds in these wilderness study areas and impacts downstream water rights holders.

BE IT FURTHER RESOLVED, that the Legislature urges the Secretary of the Department of Agriculture to direct the Forest Service to immediately evaluate the impacts of the land management alternatives on the watersheds in the wilderness study areas and downstream water rights holders to help inform Congress in its deliberations.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of Montana, the Montana Congressional Delegation, the United States Secretary of the Interior, the United States Secretary of Agriculture, and the Chief of the United States Forest Service.

Adopted April 20, 2017

HOUSE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT MONTANA'S CONGRESSIONAL DELEGATION INTRODUCE FEDERAL LEGISLATION TO RETURN MANAGEMENT OF MONTANA'S GRIZZLY BEAR POPULATION TO THE STATE OF MONTANA.

WHEREAS, the U.S. Congress authorized the Endangered Species Act of 1973; and

WHEREAS, the Endangered Species Act defined "endangered species" to mean "any species which is in danger of extinction throughout all or a significant portion of its range"; and

WHEREAS, the Endangered Species Act defined "threatened species" to mean "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range"; and

WHEREAS, the grizzly bear was designated as a "threatened species" in the conterminous United States under the Endangered Species Act on July 28, 1975; and

WHEREAS, the Endangered Species Act was amended by the U.S. Congress in 1978 so that the new definition of "species" included a "distinct population segment" that interbreeds; and

WHEREAS, in Senate Report 151, 96th Congress, 1st Session, the U.S. Congress instructed that the authority to designate distinct population segments be exercised "sparingly and only when the biological evidence indicates that such action is warranted"; and

WHEREAS, in 1993, the U.S. Fish and Wildlife Service revised the Grizzly Bear Recovery Plan, establishing six grizzly bear recovery zones, including the Greater Yellowstone Grizzly Bear Recovery Zone, the Northern Continental Divide Grizzly Bear Recovery Zone, the Cabinet-Yaak Grizzly Bear Recovery Zone, the Selkirk Grizzly Bear Recovery Zone, the Bitterroot (Mountains of Idaho and Montana) Recovery Zone, and the North Cascades (Mountains of Washington) Recovery Zone; and

WHEREAS, in 1996, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service developed a policy to clarify the meaning of “distinct population segment”, and the clarification required a distinct population segment to exhibit “discreteness” relative to the remainder of the species and “significance” to the species to which it belongs; and

WHEREAS, for the purpose of the discrete population segment policy, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service defined “discreteness” as being separated from other populations of the same species by physical, physiological, ecological, or behavioral factors or as being delimited by international governmental boundaries with significant differences in habitat management, conservation regulations, exploitation control, or regulatory mechanisms; and

WHEREAS, because of the genetic interchange between the Northern Continental Divide, Cabinet-Yaak, and Selkirk Grizzly Bear Recovery Zones and because of the genetic interchange that occurs between grizzly bears crossing the border between the United States and Canada, these three recovery zones should be considered one large interbreeding distinct population segment; and

WHEREAS, delisting efforts for the Greater Yellowstone Grizzly Bear Recovery Zone have been ongoing for 9 years, and the grizzly bear population in the Northern Continental Divide Grizzly Bear Recovery Zone has reached recovery goals and should also be in an ongoing delisting process.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature support the delisting of Montana’s grizzly bear populations from the Endangered Species Act and Montana grizzly bears should be returned to state management.

BE IT FURTHER RESOLVED, that the Montana Legislature call upon the U.S. Fish and Wildlife Service to revise the 1993 Grizzly Bear Recovery Plan and reevaluate the Grizzly Bear Recovery Zone efficacy rangewide.

BE IT FURTHER RESOLVED, that the Montana Legislature request that the U.S. Fish and Wildlife Service create a statewide distinct population segment that includes all of Montana’s grizzly bear recovery zones for the purpose of delisting the bear and returning grizzly bear management to state control.

BE IT FURTHER RESOLVED, that the U.S. Fish and Wildlife Service develop a new management plan pursuant to section 4(d) of the Endangered Species Act that would aim to resolve conflicts between bears and humans within the Northern Continental Divide Recovery Zone.

BE IT FURTHER RESOLVED, that the Montana Legislature call upon Montana’s Congressional Delegation, as part of its efforts to return management of Montana’s grizzly bear population to the State of Montana, to exempt the delisting of grizzly bear populations from judicial review.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the Montana Congressional Delegation, the Secretary of the U.S. Department of the Interior, the Governor of the State of Montana, the Department of Fish, Wildlife, and Parks, and the Secretaries of State for the States of Washington, Wyoming, and Idaho.

Adopted April 13, 2017

HOUSE JOINT RESOLUTION NO. 17

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF PRESCRIPTION DRUG PRICING; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

WHEREAS, prices for prescription drugs have increased at a faster pace than other medical costs in recent years; and

WHEREAS, the U.S. Department of Health and Human Services estimated that prescription drug costs accounted for 16.7% of the overall personal health care services Americans received in 2015; and

WHEREAS, the prices for some prescription drugs that have been on the market for years have seen recent increases that have prompted congressional inquiry; and

WHEREAS, some prescription drugs are sold in the United States at much higher prices than in other countries; and

WHEREAS, increasing prescription drug prices have affected both Montanans who purchase prescription drugs and public programs that pay for prescription drugs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine prescription drug pricing and its effects on Montanans.

BE IT FURTHER RESOLVED, that the study review:

(1) overall price changes in prescription drug prices in the last 10 years, as well as price changes in specific groups of drugs or types of drugs as identified by the committee;

(2) factors related to the price changes;

(3) the cost of prescription drugs to the state Medicaid program, the Healthy Montana Kids Plan, state employee group benefit plans, and local government health plans, including how the costs have changed in recent years; and

(4) efforts in other states and in Congress to control the costs of prescription drugs or to obtain more information about prescription drug pricing.

BE IT FURTHER RESOLVED, that the study develop recommendations for steps Montana could take to mitigate the effects of rising prescription drug prices on public programs and on Montanans.

BE IT FURTHER RESOLVED, that the study include participation by representatives of the Department of Public Health and Human Services, the Department of Administration, the Montana University System, the Board of Pharmacy, city and county governments, school districts, drug manufacturers, insurers, and other interested parties.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 20, 2017

HOUSE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF URBAN RENEWAL DISTRICTS AND TARGETED ECONOMIC DEVELOPMENT DISTRICTS THAT USE TAX INCREMENT FINANCING.

WHEREAS, the 2015-2016 Revenue and Transportation Interim Committee studied tax increment financing; and

WHEREAS, the Legislative Audit Division is undertaking a legislative audit of districts that use tax increment financing and the audit is expected to be completed by the end of 2017; and

WHEREAS, the legislative audit will provide information to inform additional study of tax increment financing.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) review the legislative audit of districts that use tax increment financing with specific attention to findings related to administrative costs, the life of districts that bond and districts that do not bond, and oversight and audits of the districts;

(2) study the percentages of tax increment revenues that are spent on administrative overhead and the variance between communities;

(3) consider developing guidelines for the ratio of public-private investment to be used in districts that use tax increment financing;

(4) consider whether to establish a maximum allowable incremental taxable value in districts that use tax increment financing and a maximum percentage of the tax base of the local government that can be placed into urban renewal districts or targeted economic development districts;

(5) consider whether to revise the definition of "blight" or the allowable reasons for creating of an urban renewal district;

(6) consider whether a third party should confirm the presence of blight or the need for infrastructure improvements and approve district boundaries;

(7) review local government expenditures on purely public projects that may not increase the tax base, review expenditures for projects that use money to spur private investment, and consider whether to limit expenditures on purely public projects;

(8) consider whether to require remittance of increment not necessary to make bond payments after expiration of the tax increment financing provision;

(9) review impacts of districts that use tax increment financing on other taxing jurisdictions, including the 2011 study on tax increment financing prepared by Montana State University-Billings;

(10) review programs that use tax increment financing for facade improvement programs and historical preservation programs; and

(11) consider the taxation of centrally assessed property within a tax increment financing district.

BE IT FURTHER RESOLVED, that the interim committee seek input from local governments, affected state agencies, and urban renewal district and targeted economic development district personnel.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 21, 2017

HOUSE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF TRANSPARENCY IN HEALTH CARE PRICING; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

WHEREAS, increases in the costs of health care services have focused attention nationally and at the state level on ways to reduce the trends in those costs; and

WHEREAS, a wide range of factors contribute to the costs of health care services, as well as to the amount individual health care consumers pay for the services they receive; and

WHEREAS, concern over the difficulty of understanding health care costs have focused on ways to increase transparency in health care pricing.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study health care price transparency.

BE IT FURTHER RESOLVED, that the study review:

(1) the factors influencing the pricing of health care services, including differences attributable to the models that different health care providers use for providing services;

(2) efforts undertaken in other states and by entities within the state to make health care cost information more widely available to consumers;

(3) ways to improve consumer understanding of the different factors affecting the health care prices that are charged and that consumers are responsible for paying;

(4) methods for encouraging consumers to make informed decisions about health care costs;

(5) existing price transparency tools and health care quality measures, including health care outcomes data and hospital accreditation data; and

(6) ways to ensure that health care price transparency efforts provide consumers with information about both the costs and the quality of health care services they may be considering.

BE IT FURTHER RESOLVED, that the study examine the role of the state in improving health care price transparency.

BE IT FURTHER RESOLVED, that the study include representatives of the State Auditor's Office, the Department of Administration, health care facilities, health insurers, individual health care providers, professional associations representing health care facilities and providers, and health care consumers.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 20, 2017

HOUSE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE CLASSIFICATION AND VALUATION OF AGRICULTURAL PROPERTY FOR PROPERTY TAX PURPOSES.

WHEREAS, the Montana Legislature adopted a policy in 1973 of valuing agricultural property based upon its productive use stating in 15-7-201(1), "Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes"; and

WHEREAS, the market for agricultural property in Montana has evolved from one in which agricultural property sales at prices higher than is justified by its productive value primarily occurred in the vicinity of growing cities in 1973 to one in which speculative purchases are now occurring in many rural and remote areas due to the parcels' desirability from a recreational or conservation standpoint; and

WHEREAS, some parcels formerly actively engaged in agricultural production are no longer being used as farms or ranches to their highest beneficial production, and in some cases have been removed from active agricultural operation altogether; and

WHEREAS, Title 15, chapter 7, part 2, contains many arbitrary classifications of lands as deserving of agricultural classification without regard to whether the lands comprise a "bona fide agricultural property" either by themselves or as part of a larger agricultural operation through lease or crop share; and

WHEREAS, the Legislature desires to review the system of agricultural appraisal set forth in Title 15, chapter 7, part 2, to determine if a logical and equitable system of valuation of agricultural properties can be developed that retains the system of valuation at productive value for "bona fide agricultural property" that contributes to employment, economic activity of agribusiness, and production of agricultural products in Montana; and

WHEREAS, the Legislature desires the study to evaluate an equitable method of valuing property that is not being used as it was historically for the production of agricultural crops or products so as not to be disruptive to the Montana real estate markets; and

WHEREAS, the currently existing Montana statutes have resulted in similarly situated parcels between 20 acres and 160 acres and the homes they contain receiving different classifications and valuations for tax purposes, while they may have very similar market values.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study the classification and valuation of agricultural property for property tax purposes.

BE IT FURTHER RESOLVED, that the study include:

(1) a review of property that currently qualifies for agricultural classification;
(2) consideration of how to determine whether property is part of a bona fide agricultural operation, including consideration of whether the determination should vary based on:

- (a) the acreage of the property;
 - (b) the type of agricultural operation, including what crops or animals are produced;
 - (c) the income derived from the property;
 - (d) the property's proximity to a city; and
 - (e) the services available to the property; and
- (3) a review of how different types of agricultural property are valued.

BE IT FURTHER RESOLVED, that the study include a comparison to other states with similar valuation and taxation of agricultural property.

BE IT FURTHER RESOLVED, that consideration be given to how to classify and value land previously qualifying as agricultural if changes to agricultural property qualification are considered.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 21, 2017

HOUSE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF SERVICES FOR ADULTS WITH DEVELOPMENTAL DISABILITIES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

WHEREAS, approximately 1,300 developmentally disabled adults are on the Department of Public Health and Human Services waiting list for community-based services; and

WHEREAS, these individuals must wait for services until an opening occurs in the community; and

WHEREAS, many community developmental disability service providers have said the costs of providing services exceeds the amount of Medicaid funding available for the services; and

WHEREAS, providers have said that having flexibility in the Medicaid funding system may allow them to provide services to more people.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study the services provided to adults with developmental disabilities and determine whether improvements could be made to the way in which services are provided and in the method of paying for the services.

BE IT FURTHER RESOLVED, that the study review:

(1) the number of developmentally disabled adults who are receiving services in the community and the number who are waiting for services, overall and by category of service;

(2) the length of time individuals spend on the waiting list for services and how the amount of time varies by category of service;

(3) the factors used to determine the so-called “cost plan”, or the amount of money the state will pay for services provided to a developmentally disabled individual in the community;

(4) the limitations placed on the use of funds in the cost plan and how the limitations affect the ability of community providers to offer services;

(5) the transition of developmentally disabled individuals from school-based services to community-based services as they move into the adult services system, including the sharing of information among service providers;

(6) service delivery models used in other states; and

(7) barriers to reducing the waiting list or providing community-based services in a more timely manner.

BE IT FURTHER RESOLVED, that the study determine what steps, if any, should be taken to:

(1) update or revise the way in which the cost plan is determined;

(2) provide more flexibility in the use of funds from the cost plan, in order to increase availability of and access to community services; and

(3) reduce the amount of time individuals must wait to obtain community services.

BE IT FURTHER RESOLVED, that the study include representatives of the Department of Public Health and Human Services, community service providers, schools, advocates for the developmentally disabled, and family members of individuals with developmental disabilities.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 20, 2017

HOUSE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF STATUTES GOVERNING MUNICIPAL FIRE DEPARTMENTS AND WHETHER ADDITIONAL LOCAL CONTROL AND FLEXIBILITY IN THE PROVISION OF FIRE PROTECTION SERVICES TO MUNICIPALITIES IS WARRANTED.

WHEREAS, Montana state law requires municipalities of the first and second classes to have fire departments, while municipalities of the third class may contract for fire protection services; and

WHEREAS, outside of the boundaries of municipalities of the first and second classes, local fire protection may be provided through rural fire districts, county fire departments, fire service areas, and fire companies; and

WHEREAS, statutes governing municipal fire departments may force communities with growing populations to make unnecessary, inefficient,

inequitable, and costly changes to fire department organizational structures; and

WHEREAS, the city of Belgrade will face an increase in cost of providing fire protection from approximately \$600,000 a year to over \$1.6 million a year and be forced to dissolve an effective and efficient relationship with Central Valley Fire District for no reason other than the statutory requirements for municipal fire departments; and

WHEREAS, House Bill 534, introduced in the 2017 Legislature, would have modified statutes governing municipal fire protection to allow municipalities of the first and second classes to choose how to provide fire protection; and

WHEREAS, municipal governments and the residents of a municipality are in the best position to determine how fire protection in their areas should be provided; and

WHEREAS, increased local control over the organization of local fire departments would provide the flexibility necessary to maximize effectiveness and efficiency in fire protection services.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the statutes governing municipal and rural fire protection to determine whether additional flexibility and local control is warranted and, if so, how best to provide for that flexibility to ensure effective and efficient fire protection services.

BE IT FURTHER RESOLVED, that the study examine:

(1) how growing populations and changes in classification of municipalities impact the ability of municipalities and fire departments to determine the best and most cost-effective means of providing the services;

(2) how changes in fire department organization may affect the cost of fire protection for residents of a municipality as well as those outside of municipal boundaries; and

(3) any other aspect of local fire protection services that the committee considers necessary.

BE IT FURTHER RESOLVED, that the committee seek information and input from representatives of municipalities, counties, volunteer fire departments, professional fire departments, fire districts, organizations of fire chiefs, the Montana State Council of Professional Fire Fighters, the Montana State Firemen's Association, associations representing volunteer firefighters, and any other entity or individual the committee considers to be appropriate.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 21, 2017

HOUSE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WHETHER UTILITIES IN MONTANA SHOULD BE REQUIRED TO ALLOW CUSTOMER CHOICE OF NATURAL GAS SUPPLIER.

WHEREAS, competition already exists in certain segments of the market, and the benefits of competition should be available to all natural gas customers; and

WHEREAS, any transition to competition should protect customers and utilities from economic harm while allowing entities the opportunity to compete effectively.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to gather accurate and complete evidence of costs from utilities in order to:

(1) identify:

(a) the costs for monopoly utilities to open their gas systems to consumer choice;

(b) the merits and complications of customer choice companies to be regulated by the appropriate state agency;

(c) in consultation with the appropriate state agencies, the costs, if any that will be passed on to consumers; and

(d) the merits and complications of deregulating a natural gas utility; and

(2) make recommendations on:

(a) providing workable competition with a level playing field for all buyers and sellers in Montana; and

(b) ensuring that existing commitments of utilities arising from past decisions made pursuant to historical regulatory and legal principles are addressed in a fair and reasonable manner.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 27, 2017

House Resolutions

HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following House Rules be adopted:

RULES OF THE MONTANA HOUSE OF REPRESENTATIVES

CHAPTER 1

Administration

H10-10. House officers – definitions. (1) House officers include a Speaker, a Speaker pro tempore, majority and minority leaders, and majority and minority whips.

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) “Majority leader” means the leader of the majority party, elected by the caucus.

(b) “Majority party” means the party with the most members, subject to subsection (4).

(c) “Minority leader” means the leader of the minority party, elected by the caucus.

(d) “Minority party” means the party with the second most members, subject to subsection (4).

(4) If there are an equal number of members of the two parties with the most members, then the majority party is the party of the Speaker and the minority party is the other party with an equal number of members.

H10-20. Speaker’s duties. (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, visual displays, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals, subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker's absence.

(8) Upon request of the Minority Leader, the Speaker will submit a request for a fiscal note on any bill.

H10-30. Speaker-elect. During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House. Authority includes approving pre-session expenditures.

H10-40. Speaker pro tempore duties. The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

H10-50. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

- (1) being the lead speaker for the majority party during floor debates;
- (2) helping the Speaker develop the calendar;
- (3) assisting the Speaker with program development, policy formation, and policy decisions; and
- (4) presiding over the majority caucus meetings; and
- (5) other duties as assigned by the caucus.

H10-60. Majority Whip. The duties of the majority whip may include but are not limited to:

- (1) assisting the majority leader;
- (2) ensuring member attendance;
- (3) counting votes;
- (4) generally communicating the majority position; and
- (5) other duties as assigned by the caucus.

H10-70. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

- (1) developing the minority position;
- (2) negotiating with the majority party;
- (3) directing minority caucus activities on the chamber floor;
- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

H10-80. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

H10-90. Employees. (1) The Speaker shall appoint a Chief Clerk and Sergeant-at-Arms and may appoint a Chaplain, subject to confirmation of the House.

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1).

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint an assistant.

H10-100. Chief Clerk's duties. The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

- (1) supervise all House employees;
- (2) have custody of all records and documents of the House;
- (3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

H10-110. Duties of Sergeant-at-Arms. The Sergeant-at-Arms shall:

- (1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;
- (2) be present whenever the House is in session and at any other time as directed by the presiding officer;
- (3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;
- (4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;
- (5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;
- (6) bring in absent members when so directed under a call of the House;
- (7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-70;
- (8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;
- (9) supervise the doorkeeper; and
- (10) supervise the pages.

H10-120. Legislative aides. (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

H10-140. House journal. (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

- (a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3);
- (b) committee reports;
- (c) messages from the Governor;
- (d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session.

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

H10-150. Votes recorded and public. Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

H10-160. Duration of legislative day. A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier. (See Joint Rule 10-20.)

CHAPTER 2

Decorum

H20-10. Addressing the House – recognition. (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, “For what purpose does the member rise?” or “For what purpose does the member seek recognition?” and may then decide if recognition is to be granted. There is no appeal from the Speaker’s or presiding officer’s decision.

H20-20. Questions of order and privilege – appeal – restrictions. (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative seconded by two representatives. The question on appeal is, “Shall the decision of the chairman be sustained?”.

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

H20-30. Limits on lobbying. Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session. A registered lobbyist is prohibited from the house floor.

H20-40. Admittance to the House floor. (1) The following persons may be admitted to the House floor during a daily session: present legislators and former legislators who are not registered lobbyists; legislative employees necessary for the conduct of the session; registered media representatives; and members' spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member's chair when the House is in session.

H20-50. Dilatory motions or questions – appeal. The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House.

H20-60. Lobbying by employees -- sanctions. (1) A legislative employee or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker may discipline or discharge any House employee violating this prohibition. The Speaker may withdraw the privileges of any House aide violating this prohibition.

H20-70. Papers distributed on desks – exception. A paper concerning proposed legislation may not be placed on representatives' desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution. This restriction does not apply to material prepared by staff and placed on a representative's desk at the request of the representative.

H20-80. Violation of rules – procedure – appeal. (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the majority or minority leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the majority or minority leader. The Committee may recommend to the House that the member be censured or be subject to other action. The House shall act upon the recommendation of the Committee.

CHAPTER 3

Committees

H30-10. House standing committees – appointments – classification.

(1) (a) The Speaker shall determine the total number of members and after good faith consultation with the minority leader shall appoint the chairs, vice chairs, and members to the standing committees.

(b) The minority leader shall designate a minority vice chair for each standing committee.

(2) The standing committees of the House are as follows:

(a) class one committees:

(i) Appropriations;

(ii) Business and Labor;

- (iii) Judiciary;
- (iv) State Administration; and
- (v) Taxation;
- (b) class two committees:
 - (i) Education;
 - (ii) Energy, Technology, and Federal Relations;
 - (iii) Human Services;
 - (iv) Natural Resources; and
 - (v) Transportation;
- (c) class three committees:
 - (i) Agriculture;
 - (ii) Fish, Wildlife, and Parks; and
 - (iii) Local Government; and
- (d) on call committees:
 - (i) Ethics;
 - (ii) Rules; and
 - (iii) Legislative Administration.

(3) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(4) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the presession caucus.

(5) There will be six subcommittees of the Committee on Appropriations, Education, General Government, Health and Human Services, Natural Resources and Transportation, Judicial Branch, Law Enforcement, and Justice, and Long-Range Planning. Each member serving on the Appropriations Committee must be appointed to at least one of the subcommittees.

(6) The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(7) The Speaker may, in the Speaker's discretion or as authorized by the House, create and appoint select committees, designating the chairman and vice chairman of the select committee. Select committees may request or receive legislation in the same manner as a standing committee and are subject to the rules of standing committees.

(8) The Speaker shall appoint all conference, select, and special committees with the advice of the majority leader and minority leader.

H30-20. Chairman's duties. (1) The principal duties of the chairman of standing or select committees are to:

- (a) preside over meetings of the committee and to put all questions;
- (b) maintain order and decide all questions of order subject to appeal to the committee;
- (c) supervise and direct staff of the committee;
- (d) have the committee secretary keep the official record of the minutes;
- (e) sign reports of the committee and submit them promptly to the Chief Clerk;
- (f) appoint subcommittees to perform on a formal or an informal basis as provided in subsection (2); and
- (g) inform the Speaker of committee activity.

(2) With the exception of the House Appropriations subcommittees, a subcommittee of a standing committee may be appointed by the chairman

of the committee. The chairman of the standing committee shall appoint the chairman of the subcommittee.

H30-30. Quorum – officers as members. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the majority leader, and the minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

H30-40. Meetings – purpose – notice – minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee directed to and with the approval of the Speaker.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes;

(f) references to the recording log, sufficient to serve as an index to the original recording; and

(g) testimony and exhibits submitted in writing.

H30-50. Procedures – absentee or proxy voting – member privileges. (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) Except as provided in subsection (3)(c), at the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a bill may be withdrawn by the sponsor without a hearing. A bill may not be reported from a committee without a hearing.

(c) A bill may not be withdrawn by the sponsor after a hearing.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as "do pass" or "do not pass", does not result in the matter passing out to the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive changes; and

(d) a fiscal note, if required and available.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting. Standing and select committees may by a majority vote of the committee authorize members to vote by proxy if absent, while engaged in other legislative business or when excused by the presiding officer of the committee due to illness or an emergency. Authorization for absentee or proxy voting must be reflected in the committee minutes.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(14) The chairman shall decide points of order.

(15) The privileges of committee members include the following:

- (a) to participate freely in committee discussions and debate;
- (b) to offer motions;
- (c) to assert points of order and privilege;
- (d) to question witnesses upon recognition by the chairman;
- (e) to offer any amendment to any bill; and
- (f) to vote, either by being present or by proxy if authorized pursuant to subsection (9), using a standard form or through the vice chairman or minority vice chairman.

(16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

H30-60. Public testimony – decorum – time restrictions. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is allowed only at the discretion of the chairman.

CHAPTER 4

Legislation

H40-10. Introduction deadlines. If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

H40-20. House resolutions. (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

H40-30. Cosponsors. (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator shall sign the cosponsor form attached to the legislation in order to be added as a cosponsor.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

H40-40. Introduction – receipt – messages from Senate and elected officials. (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

H40-50. First reading – receipt of Senate legislation. Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

H40-60. One reading per day -- exception. Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

H40-70. Referral. (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

H40-80. Rereferral – Appropriations Committee rereferral – normal progression. (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) (a) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(b) (i) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Appropriations Committee pursuant to H40-80(2)(a) and is reported from committee without amendments may be placed on third reading.

(ii) Prior to being placed on third reading, legislation rereferred pursuant to H40-80(2)(b)(i) must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading and rereferred to the House Appropriations Committee and reported from the committee without amendments.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

H40-90. Legislation withdrawn from committee. Legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

H40-100. Standing committee reports – requirement for rejection of adverse committee report. (1) A House standing committee recommendation of “do pass” or “be concurred in” must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

H40-110. Consent calendar procedure. (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a “consent calendar” item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a “consent calendar” item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce consideration of the consent calendar and allow “reasonable time” for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

H40-120. Legislation requiring other than a majority vote. Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

H40-130. Amending House second and third reading agendas – vote requirements. (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) Legislation may be added to the second or third reading agenda on that legislative day on a motion approved by not less than three-fifths of the members present and voting.

H40-140. Second reading – timing – obverse vote on failed motion – status of amendments – rejection of report – segregation. (1) Legislation returned or withdrawn from committee by motion must be placed on second reading prior to the transmittal deadlines provided for in Joint Rule 40-200 that are applicable to each piece of legislation.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill “do pass” or “be concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do not pass” or “be not concurred in”, is considered to have passed. If a motion to recommend that a bill “do not pass” or “be not concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do pass” or “be concurred in”, is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered pursuant to H50-170 or unless the legislation is rereferred to a committee.

H40-150. Amendments in the Committee of the Whole – timing – official records. (1) All Committee of the Whole amendments must be prepared by the Legislative Services Division and checked by the House

amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the majority leader, the minority leader, and sponsor agree, amendments must be printed and placed on the members' desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

H40-160. Motions in the Committee of the Whole – quorum required.

(1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (Senate amendments to House legislation);

(c) amend;

(d) reconsider as provided in H50-170;

(e) pass consideration;

(f) call for cloture;

(g) change the order in which legislation is placed on the agenda; and

(h) rise, rise and report, or rise and report progress and beg leave to sit again.

(2) Subsections (1)(d) through (1)(f) and (1)(h) are nondebatable but may be amended. Once a motion under subsection (1)(a) or (1)(b) is made, a contrary motion is not in order.

(3) The motions listed in subsection (1) may be made in descending order as listed.

(4) If a quorum of representatives is not present during second reading, the Committee of the Whole may not conduct business on legislation and a motion for a call of the House without a quorum is in order.

H40-170. Limits on debate in the Committee of the Whole. (1) Except as provided in H40-180, a representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) (a) Except as provided in subsection (2)(b), after at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed from the point in time that the sponsor's opening remarks on the motion end and debate on the motion begins, a motion to call for cloture is in order.

(b) (i) The 30-minute tolling requirement for a cloture motion made pursuant to subsection (2)(a) does not include time spent on floor debate of a substitute motion to amend the original question.

(ii) Each substitute motion to amend the original question is subject to a cloture motion and the cloture requirements provided for in this rule.

(iii) Once a substitute motion to amend is dispensed with and there are no other substitute motions to amend, the 30-minute tolling requirement for the original question pursuant to subsection (2)(a) resumes from the point in time in which the first substitute motion to amend was made.

(c) Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

H40-180. Special provisions for debate on the general appropriations bill – sections – amendments. (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

H40-190. Engrossing. (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it must be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing and must be placed on third reading on the legislative day after receipt. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill. (See Joint Rule 40-150.)

H40-200. Third reading. (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

H40-210. Senate legislation in the House. Senate legislation properly transmitted to the House must be treated as House legislation.

H40-220. Senate amendments to House legislation. (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may rerefer House legislation with Senate amendments to a committee for a

hearing if the Senate amendments constitute a significant change in the House legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

H40-230. Conference committee reports. (1) When a House conference committee files a report, the report must be announced under Order of Business No. 3.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

H40-240. Enrolling. (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation. (See Joint Rule 40-160.)

H40-250. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

H40-260. Governor's veto. (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 5

Floor Actions

H50-10. Attendance – excuse – call of the House. (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

H50-20. Quorum. (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may not conduct business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

H50-30. Call of the House without a quorum. (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

H50-50. Leave with cause during call of the House. (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker may approve a request for a leave with cause.

(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

H50-60. Opening and order of business. The opening of each legislative day must include an invocation, the pledge of allegiance, and roll call. Following the opening, the order of business of the House is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Senate;
- (5) messages from the Governor;
- (6) first reading and commitment of bills;
- (7) second reading of bills;
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

H50-70. Motions. (1) Any representative may propose a motion allowed by the rules for the order of business under which the motion is offered for the

consideration of the House. Unless otherwise specified in rule or law, a majority of representatives voting is necessary and sufficient to decide a motion.

(2) Seconds to motions on the House floor are not required.

(3) Absentee votes are not allowed on votes that are specified as “representatives present and voting”.

(4) The majority leader shall make routine procedural motions required to conduct the business of the House.

H50-80. Limits on debate of debatable motions. (1) Except for the representative who places a debatable motion before the body, no representative may speak more than once on the question unless a unanimous House consents. The representative who places the motion may close.

(2) No representative may speak for more than 10 minutes on the same question, except that a representative may have 5 minutes to close.

H50-90. Nondebatable motions. (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

(a) to adjourn pursuant to H50-250;

(b) for a call of the House;

(c) to recess or rise;

(d) for parliamentary inquiry;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to amend a nondebatable motion;

(h) to divide a question;

(i) to suspend the rules;

(j) all incidental motions, such as motions relating to voting or of a general procedural nature;

(k) to appeal a call to order;

(l) to question the lack of a quorum pursuant to H50-20; and

(m) to change a vote pursuant to H50-210.

H50-100. Questions. A representative may, through the presiding officer, ask questions of another representative during a floor session. There is no limit on questions and answers, except as provided in H20-50.

H50-110. Amending motions -- limitations. (1) A representative may move to amend the specific provisions of a motion without changing its substance.

(2) No more than one motion to amend a motion is in order at any one time.

(3) A motion for a call of the House, for the previous question, to table, or to take from the table may not be amended.

H50-120. Substitute motions. (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

(a) to adjourn (nondebatable H50-90 and H50-250);

(b) for a call of the House (nondebatable H50-90);

(c) to recess or rise (nondebatable H50-90);

(d) for a question of privilege;

(e) to table (nondebatable H50-90);

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer to a committee; and

(i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

H50-130. Withdrawing motions. A representative who proposes a motion may withdraw it before it is voted on or amended.

H50-140. Dividing a question. Except as provided in H40-180(3), a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed. The request is nondebatable under H50-90. The presiding officer may rule that a question is nondivisible. The ruling of the chair may be appealed as provided in H50-160(14) or (16) and H70-50. For an appeal of a ruling of the presiding officer, the question for the house must be stated as, "Shall the ruling of the chair be upheld?"

H50-150. Previous question -- close. (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

H50-160. Questions requiring other than a majority vote. The following questions require the vote specified for each condition:

100 House Members

(1) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths);

(3) a motion to approve a bill to appropriate highway revenue, as described in Article VIII, section 6, of the Montana Constitution, for purposes other than therein described (three-fifths);

(4) a motion to approve a bill to authorize creation of state debt pursuant to Article VIII, section 8, of the Montana Constitution (two-thirds);

(5) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths);

(6) a motion to temporarily suspend a joint rule governing the procedure for handling bills pursuant to Joint Rule 60-10(2) (two-thirds).

Members Present and Voting

(1) a motion to override the Governor's veto pursuant to H40-260 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(2) a motion to lift a call of the House pursuant to H50-30(3) (two-thirds);

(3) a motion to rerefer a bill from one committee to another pursuant to H40-80(1) (three-fifths);

(4) a motion to withdraw a bill from a committee pursuant to H40-90 (three-fifths);

(5) a motion to add legislation to the second or third reading agenda on that day pursuant to H40-130(2) (three-fifths);

(6) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

(7) a motion to change a vote pursuant to H50-210 (unanimous);

- (8) a motion to call for cloture pursuant to H40-170(2) (two-thirds);
- (9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);
- (10) a motion to amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);
- (11) a motion to overturn an adverse committee report pursuant to H40-100(2) (three-fifths);
- (12) a motion to record a vote pursuant to H50-200(2) (one representative);
- (13) a motion to record a vote in the journal (two representatives);
- (14) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);
- (15) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);
- (16) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee pursuant to H70-50 (15 representatives).

Entire Legislature

(1) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature).

H50-170. Reconsideration – time restriction. (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider is limited to two proponents and two opponents to the motion and the debate may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(3) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(4) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(5) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(6) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(7) There may be only one reconsideration vote on a specific issue on a legislative day.

H50-180. Renewing procedural motions. The House may renew a procedural motion if further House business has intervened.

H50-190. Tabling. (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

H50-200. Voting – conflict of interest – present by electronic means.

(1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.

(5) A member may be present for a vote by electronic means.

H50-210. Changing a vote -- consent required. (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

H50-220. Absentee votes -- restrictions. (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading or on motions specified as present and voting pursuant to H50-70.

H50-230. Recess. The House may stand at ease or recess under any order of business by order of the Speaker or a majority vote. The recess may be ended at the call of the chair or at a time specified.

H50-240. Adjournment for a legislative day. (1) A representative may move that the House adjourn for that legislative day. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

(2) A motion to adjourn for a legislative day must specify a date and time for the House to convene on the subsequent legislative day.

H50-250. Adjournment sine die. Subject to Article V, section 10(5), of the Montana Constitution, a representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

CHAPTER 6

Motions

H60-10. Proposal for consideration. (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

H60-20. Nondebatable motions. The following motions, in addition to any other motion specifically designated, must be decided without debate:

- (1) to adjourn;
- (2) for a call of the House;
- (3) to recess or rise;

- (4) for parliamentary inquiry;
- (5) to table or to take from the table;
- (6) to call for the previous question or for cloture;
- (7) to amend a nondebatable motion;
- (8) to divide a question;
- (9) to suspend the rules; and
- (10) all incidental motions, such as motions relating to voting or of a general procedural nature.

H60-30. Motions allowed during debate. (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

- (a) to adjourn;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for a question of privilege;
- (e) to table or take from the table;
- (f) to call for the previous question or cloture;
- (g) to postpone consideration to a day certain;
- (h) to refer or rerefer; and
- (i) to propose amendments.

(2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.

(3) Only one substitute motion is in order at any time.

H60-40. Motions to adjourn or recess. (1) A motion to adjourn or recess is always in order, except:

- (a) when the House is voting on another motion;
- (b) when the previous question has been ordered and before the final vote;
- (c) when a member entitled to the floor has not yielded for that purpose; or
- (d) when business has not been transacted after the defeat of a motion to adjourn or recess.

(2) A motion to adjourn sine die pursuant to H50-250 is subject to Article V, section 10(5), of the Montana Constitution.

(3) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

H60-50. Motion to table. (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) After a vote on a motion to table is carried or fails, the motion cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

H60-60. Motion to postpone. A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

H60-70. Motion to refer. When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

H60-80. Terms of debate on motion to refer or rerefer. (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

H60-100. Moving the previous question after a motion to table. (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

H60-110. Standard motions. The following are standard motions:

(1) moving House bills or resolutions on second reading, “Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill ___, that it recommend the same (do pass)/(do pass as amended)/(do not pass).”

(2) moving Senate bills and Senate amendments to House bills, “Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill ___/Senate amendments to House Bill ___, that it recommend the same (be concurred in)/(be not concurred in).”

(3) Committee of the Whole floor amendments, “Mister/Madam Chairman, I move that House Bill ___/Senate Bill ___ be amended and request that the amendment be posted and deemed read.”

(4) introducing visitors, “Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal.”

(5) changing a vote, “Mister Speaker, I would like my vote changed on House Bill ___/Senate Bill ___ from (yes/no) to (yes/no). The question on the bill was () with a vote tally of ___ for and ___ against.”

(6) question another representative, “Mister/Madam Speaker/Chairman, would Representative ___ yield to a question?”

CHAPTER 7

Rules

H70-10. House rules – amendment – report timing. (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules and joint rules.

(4) The House Rules Committee shall report all resolutions for House rules and joint rules within 1 legislative day of referral.

H70-20. Tenure of rules. Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

H70-30. Suspension of rules. The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

H70-40. Supplementary rules. Mason’s Manual of Legislative Procedure (2010) governs House proceedings in all cases not covered by House rules.

H70-50. Interpreting rules – appeal. The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on the appeal on the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

H70-60. Joint rules superseded. A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

Appendix

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

Agriculture: Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

Appropriations: Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

Business and Labor: Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

Education: Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers; school transportation; students; teachers; and vocational education and training.

Ethics: Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

Energy, Technology, and Federal Relations: Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; technology; and utilities other than municipal utilities.

Fish, Wildlife, and Parks: Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

Human Services: Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

Judiciary: Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law; privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

Legislative Administration: Interim committees and matters related to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

Local Government: Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

Natural Resources: Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire

department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

Rules: House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

State Administration: Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

Taxation: Taxes other than fuel taxes.

Transportation: Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by the Speaker.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chair determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a three-fifths vote.

Adopted January 6, 2017

HOUSE RESOLUTION NO. 2

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING ELIMINATION OF THE MONTANA INTERTIE RATE.

WHEREAS, the Eastern Intertie is a segment of high-voltage transmission line running between Townsend and Garrison, Montana, owned and operated by the Bonneville Power Administration; and

WHEREAS, the Montana Intertie rate is a transmission tariff governing the use of 200 megawatts of transmission capacity on the Eastern Intertie; and

WHEREAS, the Townsend to Garrison rate is a transmission tariff governing the use of 1,734 megawatts of transmission capacity on the Eastern Intertie; and

WHEREAS, the Bonneville Power Administration has overcollected, by nearly \$1 million per year in recent years, the Eastern Intertie's revenue

requirement from Colstrip partners, including NorthWestern Energy, a regulated utility with 360,000 customers in Montana; and

WHEREAS, equitable transmission rates are necessary to new and existing generation facilities seeking to export electrical energy from Montana, including continued operations at the Colstrip generating facility; and

WHEREAS, the Bonneville Power Administration's transmission network consists of 15,000 miles of electric transmission lines throughout Montana, Idaho, Washington, and Oregon; and

WHEREAS, the Eastern Intertie is less than 100 miles in distance, but the Montana Intertie adds roughly 40% to the cost of traversing the Bonneville Power Administration's network transmission system; and

WHEREAS, since the original Montana Intertie Agreement was signed in 1981, 184 megawatts of transmission capacity on the Eastern Intertie has never been subscribed for long-term transmission service and remains unsubscribed today; and

WHEREAS, it is in the best interest of Montana and for economic development to maximize the utilization of the existing transmission system and available transmission capacity; and

WHEREAS, development of energy generation facilities in Montana, of any kind, to serve Pacific Northwest loads will contribute to the economic development of Montana; and

WHEREAS, full subscription of the Eastern Intertie would facilitate the reduction of network rates for all Bonneville Power Administration transmission customers by 0.3%; and

WHEREAS, full subscription of the Eastern Intertie would reduce the Townsend to Garrison rate paid by the Colstrip transmission system partners by as much as 9.5%, including costs passed on to Montana consumers; and

WHEREAS, a reduction in the Townsend to Garrison rate paid by the Colstrip transmission system partners would make the operating units at Colstrip more economically attractive and competitive; and

WHEREAS, an elimination of the Montana Intertie rate would make new generation facilities in Montana more economically competitive.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana House of Representatives supports the elimination of the Montana Intertie rate and supports updating the Bonneville Power Administration's tariffs to recover the revenue requirement of the Eastern Intertie, but not more.

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Administrator of the Bonneville Power Administration, the Secretary of the U.S. Department of Energy, each member of Montana's Congressional Delegation, the Northwest Power and Conservation Council, and the Governors of Montana, Idaho, Washington, and Oregon.

Adopted April 12, 2017

HOUSE RESOLUTION NO. 3

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO RETAIN PERMANENT REAUTHORIZATION OF THE INDIAN HEALTH CARE IMPROVEMENT ACT WHEN MAKING CHANGES TO OR REPEALING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.

WHEREAS, studies have shown that American Indians and Alaska Natives have a lower life expectancy than other races and experience higher rates of many diseases, including diabetes and heart disease; and

WHEREAS, the United States entered into treaties and other agreements with Indian tribes that created a trust responsibility to, among other things, provide for the health and well-being of Indian peoples in return for land ceded by the tribes; and

WHEREAS, Congress passed the Snyder Act in 1921 to provide appropriations for health services to tribes throughout the United States; and

WHEREAS, Congress in 1976 enacted the Indian Health Care Improvement Act, declaring “it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy”; and

WHEREAS, Congress periodically revised and reauthorized the Indian Health Care Improvement Act before permanently reauthorizing the act as part of the Patient Protection and Affordable Care Act in 2010; and

WHEREAS, in the face of current uncertainty over congressional action relating to the Patient Protection and Affordable Care Act, retaining that law’s permanent reauthorization of the Indian Health Care Improvement Act is of significant importance to Montana’s Indian tribes, tribal members, and the state of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That in making any revisions to or repealing the Patient Protection and Affordable Care Act, President Trump and the United States Congress be urged to retain or create the permanent reauthorization of the Indian Health Care Improvement Act.

(2) That the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader and Minority Leader of the United States House of Representatives, the Majority Leader and Minority Leader of the United States Senate, to each member of the Montana Congressional Delegation, and to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Adopted April 12, 2017

Senate Joint Resolutions

SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

CHAPTER 10

Administration

10-10. Time of meeting. Each house may order its time of meeting.

10-20. Legislative day – duration. (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

10-30. Schedules. The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

10-40. Adjournment – recess – meeting place. A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)). The procedure for obtaining consent is contained in Joint Rule 20-10.

10-50. Access of media – registration – decorum – sanctions. (1) Subject to the presiding officer's discretion on issues of decorum and order, a registered media representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

(2) The presiding officer shall authorize the issuance of cards to media representatives to allow floor access, and media representatives holding the cards are subject to placement on the floor by the presiding officer. The presiding officer may delegate enforcement of this rule to the office of the Secretary of the Senate, Chief Clerk of the House, the respective Sergeant-at-Arms, or the Legislative Information Officer. The privilege may be revoked or suspended for a violation of decorum and order as agreed to by the media representative upon application for registration.

(3) Registered media representatives may be subject to seating in designated areas. Overflow access will be in the gallery.

10-60. Conflict of interest. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs.

10-70. Telephone calls and internet access. (1) Long-distance telephone calls made by a member on a state telephone while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system

if the use is for legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides, may use state telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

(4) For purposes of this section, "state telephone" or "state phone" means a landline telephone or other telephone provided by the state.

10-80. Joint employees. The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

10-85. Harassment prohibited – reporting. (1) Legislators and legislative employees have the right to work free of harassment on account of race, color, sex, culture, social origin or condition, or religious ideas when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, legislator, lobbyist, or member of the public.

(2) A violation of this policy must be reported to the party leader in the appropriate house if the offended party is a legislator or to the presiding officer if the offended party is the party leader. The presiding officer may refer the matter to the rules committee of the applicable house, and the offender is subject to discipline or censure, as appropriate.

(3) If the offended party is an employee of the house of representatives or the senate, the violation must be reported to the employee's supervisor or, if the offender is the supervisor for the house of representatives or the senate, the report should be made to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a permanent legislative employee, the report should be made to the employee's supervisor or, if the offender is the supervisor, to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(4) If the offended party is a supervisor for the house of representatives or the senate, the violation must be reported to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a supervisor of permanent legislative employees, the violation must be reported to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(5) The chief clerk or the secretary shall report the violation to the presiding officer. The presiding officer may refer the matter to the rules committee. If the offender is an employee or supervisor, the employee or supervisor is subject to discipline or discharge.

10-100. Legislative Services Division. (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

(3) The Legislative Services Division shall train journal clerks for both houses.

10-120. Engrossing and enrolling staff – duties. (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

(i) errors in spelling;

(ii) errors in numbering sections;

(iii) additions or deletions of underlining or lines through matter to be stricken;

(iv) material copied incorrectly from the Montana Code Annotated;

(v) errors in outlining or in internal references;

(vi) an error in a title caused by an amendment;

(vii) an error in a catchline caused by an amendment;

(viii) errors in references to the Montana Code Annotated; and

(ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall give notice to the sponsor of the bill or amendment. The form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing with the Secretary of the Senate or the Chief Clerk of the House by the end of the next legislative day following receipt of the notice. The Senate or House shall vote on whether or not to uphold the objection. If the objection is upheld, the Secretary of the Senate or the Chief Clerk of the House shall notify the Executive Director of the Legislative Services Division, and the engrossing staff shall change the bill to remove the correction or corrections to which the objection was made.

(4) For the purposes of this rule, “engrossing” means placing amendments in a bill.

10-130. Bills – sponsorship – style – format. (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

(a) printed on paper with numbered lines;

(b) numbered at the foot of each page (except page 1);

(c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and

(d) introduced. Introduction constitutes the first reading of the bill.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) (a) Except as provided in subsection (4)(b), sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(b) (i) Sections of the Montana Code Annotated repealed or amended in a legislative referendum must be stated in the title unless the inclusion of those sections in the title would cause the title to cumulatively exceed a 100-word limit.

(ii) If the inclusion of sections of the Montana Code Annotated repealed or amended in a legislative referendum title would cause the title to cumulatively exceed 100 words, the title must include those sections that do not exceed the 100-word limit and include a reference to the total number of additional sections listed in the body of the bill that are excluded from the title due to the 100-word limit. Those additional sections excluded from the title must be listed in a section within the body of the bill after the enacting clause.

(5) Introduced bills must be reproduced on white paper and distributed to members.

10-140. Voting on bills – constitutional amendments. (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

(3) This rule does not prevent a committee from tabling a bill proposing an amendment to The Constitution of the State of Montana.

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made available to the public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

- (i) amend;
- (ii) recommend passage or nonpassage;
- (iii) recommend concurrence or nonconcurrence; or
- (iv) indefinitely postpone.

(b) The text of all proposed amendments in Committee of the Whole must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a written log must also be kept that includes but is not limited to:

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

10-160. Journal. Each house shall:

(1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;

- (2) examine its journal and order correction of any errors; and
- (3) make a daily journal available to all members.

10-170. Journals – authentication – availability. (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives must be authenticated by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public.

CHAPTER 20

Relations With Other House

20-10. Consent for adjournment or recess. As required by Article V, section 10(5), of the Montana Constitution, the consent of the other house is required for adjournment or recess for more than 3 calendar days. Consent for adjournment is obtained by having the house wishing to adjourn send a message to the other house and having the receiving house vote favorably on the request. The receiving house shall inform the requesting house of its consent or lack of consent. Consent is not required on or after the 87th legislative day.

CHAPTER 30

Committees

30-10. Joint committee chair – exception. Except as provided in Joint Rule 30-50 concerning the joint meetings of the Senate Finance and Claims Committee and the House Appropriations Committee, the chair of the Senate committee is the chair of all joint committees.

30-20. Voting in joint committees – exception. (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

30-30. Conference committees – subject matter restrictions. (1) If either house requests a conference committee and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept.

(2) A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend:

- (a) acceptance or rejection of each disputed amendment in its entirety; or
- (b) further amendment of the disputed amendment.

(3) If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as provided in subsection (1). A free conference committee may discuss and propose amendments to a bill in its entirety and is not confined to a particular amendment. However, a free conference committee is limited to consideration of amendments that are within the scope of the title of the introduced bill.

30-40. Conference committee – enrolling. A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

30-50. Committee consideration of general appropriation bills. (1) All general appropriation bills must first be considered by a joint subcommittee composed of designated members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each committee separately.

(2) Joint meetings of the House Appropriations Committee and the Senate Finance and Claims Committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

(a) either house has fewer members on the joint subcommittees;

(b) the chair represents the house with fewer members on the subcommittees; and

(c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

30-60. Estimation of revenue. (1) The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the Legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the Legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session.

30-70. Appointment of interim committees. As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

(1) Economic Affairs Interim Committee:

(a) Senate Agriculture, Livestock, and Irrigation Committee;

(b) Senate Business, Labor, and Economic Affairs Committee;

(c) Senate Finance and Claims Committee;

(d) House Agriculture Committee;

(e) House Business and Labor Committee;

(f) House Energy, Technology, and Federal Relations Committee; and

(g) House Appropriations Committee;

(2) Education and Local Government Interim Committee:

(a) Senate Education and Cultural Resources Committee;

(b) Senate Local Government Committee;

(c) Senate Finance and Claims Committee;

(d) House Education Committee;

(e) House Local Government Committee; and

(f) House Appropriations Committee;

(3) Children, Families, Health, and Human Services Interim Committee:

(a) Senate Public Health, Welfare, and Safety Committee;

(b) Senate Finance and Claims Committee;

(c) House Human Services Committee; and

(d) House Appropriations Committee;

(4) Law and Justice Interim Committee:

- (a) Senate Judiciary Committee;
- (b) Senate Finance and Claims Committee;
- (c) House Judiciary Committee; and
- (d) House Appropriations Committee;
- (5) Revenue and Transportation Interim Committee:
- (a) Senate Taxation Committee;
- (b) Senate Highways and Transportation Committee;
- (c) Senate Finance and Claims Committee;
- (d) House Taxation Committee;
- (e) House Transportation Committee; and
- (f) House Appropriations Committee;
- (6) State Administration and Veterans' Affairs Interim Committee:
- (a) Senate State Administration Committee;
- (b) Senate Finance and Claims Committee;
- (c) House State Administration Committee; and
- (d) House Appropriations Committee;
- (7) Energy and Telecommunications Interim Committee:
- (a) Senate Energy Committee;
- (b) House Energy, Technology, and Federal Relations Committee;
- (c) House Appropriations Committee; and
- (d) Senate Finance and Claims Committee.

30-80. Appointment of committees other than standing or statutory interim committees. Members of committees other than standing or statutory interim committees shall be appointed in accordance with the rules of each house.

CHAPTER 40

Legislation

40-10. Amendment to state constitution. A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

40-20. Appropriation bills – introduction in House – feed bill. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

40-30. Effective dates. (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed in the joint resolution.

40-40. Bill requests and introduction – limits and procedures – drafting priority – agency and committee bills. (1) Prior to a regular session, a person entitled to serve in that session, referred to as a “member”, or a legislative committee is entitled to request bill drafting services from the Legislative Services Division. Deadlines for requesting certain types of bills during a legislative session are contained in Joint Rule 40-50.

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and

resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must pick up the bill and sign a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

- (i) Code Commissioner bills;
- (ii) a bill or resolution requested by a standing committee; and
- (iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 20 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15 for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill back must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Except as provided in subsection (5)(b)(ii), any bill requested by an interim or statutory legislative committee or on behalf of an administrative or

executive agency or department through an interim or statutory committee must be so indicated by placing after the names of the sponsors the phrase “By Request of the..... (Name of committee or agency)”. The phrase may not be added to an introduced bill by amendment. The phrase may not be placed on a bill unless requested by a statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction of an agency, committee, or individual legislator’s bill must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) (i) The preintroduction requirement does not apply to an office held by an elected official during the official’s first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue. Bills requested under this subsection (5)(b) may include the phrase “By Request of.....(Name of official or committee)”.

(ii) An official newly elected to a statewide office may request in writing that the Legislative Services Division remove the phrase “By Request of" from bills requested by the outgoing official of that office.

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor’s name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

40-50. Schedules for drafting requests and bill introduction. (1) The following schedule must be followed for submission of drafting requests.

	Request Deadline
	5:00 P.M.
	Legislative Day
● General Bills and Resolutions	12
● Revenue Bills	17
● Committee Bills and Resolutions	36
● Committee Revenue Bills and Bills Proposing Referenda	62
● Committee Bills implementing provisions of a general appropriation act	67
● Interim study resolutions	60
● Appropriation Bills	45
● Resolutions to express confirmation of appointments	No Deadline
● Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) (a) A bill or resolution must be introduced at least 6 legislative days prior to the applicable transmittal deadline as provided in Joint Rule 40-200 except for:

- (i) a session committee bill or resolution;
 - (ii) a bill repealing or directing the amendment or adoption of administrative rules;
 - (iii) a joint resolution advising or requesting the repeal, amendment, or adoption of administrative rules; or
 - (iv) a resolution expressing confirmation.
- (b) Bills and resolutions must be introduced within 2 legislative days after delivery. Failure to comply with the introduction deadline results in the bill draft being canceled.

40-60. Joint resolutions. (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

- (a) express desire, opinion, sympathy, or request of the Legislature;
- (b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;
- (c) request, but not require, a legislative entity to conduct an interim study;
- (d) adopt, amend, or repeal the joint rules;
- (e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;
- (f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;
- (g) submit a negotiated settlement under section 39-31-305(3), MCA;
- (h) declare or terminate an energy emergency under section 90-4-310, MCA;
- (i) ratify or propose amendments to the United States Constitution;
- (j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or
- (k) approve the organization of a new community college district under section 20-15-209, MCA.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

40-65. Appropriation required for bills requesting interim studies.

(1) A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. The bill must include a contingent voidness section that would void the bill if an appropriation is not included. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

(2) A Senator may introduce a bill that includes a request for an interim study in the Senate without an appropriation, but the bill may not be transmitted to the Governor unless the bill contains an appropriation added in the House that is sufficient to conduct the study.

40-70. Bills with same purpose -- vetoes. (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of

the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

40-80. Reproduction of full statute required. A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

40-90. Bills – original purpose. A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

40-100. Fiscal notes. (1) All bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

- (a) the estimated increase or decrease in revenues or expenditures;
- (b) costs that may be absorbed without additional funds; and
- (c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:

- (a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

- (c) the chief sponsor.

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within 3 days of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(10) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

(12) (a) If the budget director fails to prepare and submit a fiscal note in a timely fashion in accordance with this rule, the presiding officer of each house may request the preparation of a fiscal note by the Legislative Fiscal Division, which shall prepare a fiscal note for the bill.

(b) The presiding officer of the originating chamber shall designate which fiscal note accompanies the bill or is used in the preparation of the status sheet if more than one fiscal note is prepared.

40-110. Sponsor's fiscal note rebuttal. (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal, the sponsor shall make the election as provided and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note rebuttal.

(3) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals and shall print the completed sponsors' fiscal note rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.

40-120. Substitute bills. (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

40-130. Reading of bills. Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title. Introduction constitutes the first reading of the bill.

40-140. Second reading – bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon

the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;
- (c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

40-170. Amendment by second house. (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

40-180. Final action on a bill. (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

40-190. Transmittal of bills between houses – referral – hearing. (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

(3) Transmitted bills must be referred to committee and scheduled for hearing.

40-200. Transmittal deadlines – two-thirds vote requirement.

(1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of

two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, a bill proposing a referendum, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, bills proposing referenda, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 67th legislative day.

(ii) Amendments to revenue bills and bills proposing referenda, received from the other house, must be transmitted to the house of origin on or before the 80th legislative day.

(iii) A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day. A fund transfer within the state treasury is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced pursuant to 5-5-227, MCA, for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the body in which the resolution was introduced no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

40-210. Governor's veto. (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

- (a) bills proposing amendments to The Constitution of the State of Montana;
- (b) bills ratifying proposed amendments to the United States Constitution;
- (c) resolutions; and
- (d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

40-220. Response to Governor's veto. (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

40-230. Governor's recommendations for amendment – procedure.

(1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.

(b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

CHAPTER 60

Rules

60-05. Source and precedent of legislative rules of the Montana Legislature. (1) The legislative rules of the Montana Legislature are derived from several sources listed below and take precedence in the following order:

(a) constitutional provisions and judicial decisions on the constitution;

(b) adopted legislative rules of the Montana Legislature;

(c) statutory provisions;

(d) adopted parliamentary authority; and

(e) parliamentary law.

(2) Legislative rules passed by one legislature or statutory provisions governing the legislative process are not binding on a subsequent legislature.

60-10. Suspension of joint rule – change in rules. (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

60-20. Reference to Mason's Manual. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

60-30. Publication and distribution of joint rules. (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

60-40. Tenure of joint rules. The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted February 6, 2017

SENATE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXPLORE INCREASING ACCESS TO TRIBAL RESOURCES FOR TRIBAL MEMBERS WHO ARE IN THE STATE'S CRIMINAL JUSTICE SYSTEM.

WHEREAS, the Commission on Sentencing conducted a year-long study of Montana's criminal justice system, as required by Senate Bill No. 224 (Chapter 343, Laws of 2015); and

WHEREAS, the Commission was required by SB 224 to consider disparity in the criminal justice process, including but not limited to racial and ethnic disparity issues; and

WHEREAS, Montana is home to 7 American Indian reservations and 12 tribes, and American Indians/Alaska Natives make up 7% of the Montana population; and

WHEREAS, research provided to the Commission showed that American Indians account for 27% of all arrests that relate to failure to appear for court events or for violations of conditions related to community supervision; and

WHEREAS, the Commission recommends that an interim committee explore methods to increase access to tribal resources for tribal members who

are in the state criminal justice system to decrease recidivism and improve outcomes for those offenders.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to explore how Montana could increase access to tribal resources for tribal members who are involved in the state's criminal justice system.

BE IT FURTHER RESOLVED, that the committee study how the state could:

(1) transfer tribal members who are subject to state supervision from state or county custody to tribal custody;

(2) allow tribal members to fulfill conditions of state court-ordered programming by participating in programs offered by the tribes or tribal organizations; and

(3) create a grant program to enable the Office of the State Public Defender to enlist tribal defense attorneys in place of an appointed public defender for tribal members.

BE IT FURTHER RESOLVED, that the committee consider efforts to revise community supervision structures in other states with significant tribal populations.

BE IT FURTHER RESOLVED, that the committee consult with tribal leaders and members and involve other relevant stakeholders identified by the committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 24, 2017

SENATE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE THREATS TO THE MINING AND BURNING OF COAL IN MONTANA AND THE CONSEQUENCES OF SIGNIFICANT REDUCTIONS IN COAL MINING AND USAGE.

WHEREAS, the mining and burning of coal in Montana is a significant part of Montana's economy and is a significant fiscal resource for the Legislature; and

WHEREAS, to plan for the future of Montana, residents need to better understand the economic and ecological effects of reducing or eliminating the mining and burning of coal, if threats to one or both become manifest.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) investigate the future outlook of coal markets and the coal industry;

(2) investigate the consequences of significant reductions in the mining and burning of coal, if threats to one or both become manifest, to:

(a) local, regional, and statewide economic sectors, including the impacts to existing contracts for the mining or burning of coal; and

(b) Montana's existing electrical generation;

(3) outline measurements of the economic impacts of reducing or eliminating the mining or burning of coal; and

(4) assess the role of the coal severance tax in Montana's future, the financial ramifications of reducing coal mining in Montana, and the potential for other economic sectors to compensate for any reduction in the coal severance tax due to reduced coal mining in Montana.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 26, 2017

SENATE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO PROPOSE THE REGULATION FREEDOM AMENDMENT TO THE UNITED STATES CONSTITUTION.

WHEREAS, the growth and abuse of federal regulatory authority threaten our constitutional liberties, including those guaranteed by the Bill of Rights in the First, Second, Fourth, and Fifth Amendments of our Constitution; and

WHEREAS, federal regulators must be more accountable to elected representatives of the people and not immune from such accountability; and

WHEREAS, the Declaration of Independence decried the imposition by the central government of "an absolute tyranny over these states" and a central government that "erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance"; and

WHEREAS, states too often find themselves in a similar position today; and

WHEREAS, the United States House of Representatives has passed with bipartisan support the REINS Act to require that Congress approve major new federal regulations before they can take effect; and

WHEREAS, even if enacted, a law may be repealed or waived by a future Congress and President; and

WHEREAS, an amendment to the United States Constitution does not require the President's approval and cannot be waived by a future Congress and President.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Sixty-fifth Legislature urges Congress to propose the Regulation Freedom amendment to the United States Constitution as follows: "Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation."

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, to each member of Congress, and to the principal leaders in all state legislative chambers.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE POTENTIAL IMPACTS OF AND METHODS TO PREVENT CHRONIC WASTING DISEASE IN MONTANA.

WHEREAS, chronic wasting disease (CWD) is a disease of the nervous system that can affect deer, elk, and moose, for which there is no known treatment, and that is typically fatal; and

WHEREAS, CWD is found in more than 20 states, including North and South Dakota and Wyoming and two Canadian provinces, Alberta and Saskatchewan; and

WHEREAS, CWD is contagious and can be transmitted freely within and among free-ranging populations, even by animals that are not yet clinically ill; and

WHEREAS, CWD has an extended incubation period averaging 18 to 24 months between infection and the onset of clinical signs, which include progressive weight loss, decreased social interaction, loss of awareness and fear of humans, increased drinking and urination, and excess salivation; and

WHEREAS, managing CWD in free-ranging populations is extremely difficult, making prevention the best defense.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and make recommendations regarding:

(1) the potential impacts of CWD on deer, elk, and moose populations and the economy in Montana;

(2) measures to prevent CWD and protect deer, elk, and moose in Montana;

(3) surveillance strategies for detecting CWD; and

(4) management of herds that become infected to prevent the spread of CWD.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 24, 2017

SENATE JOINT RESOLUTION NO. 10

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING PROMPT CONGRESSIONAL AND PRESIDENTIAL APPROVAL FOR THE KEYSTONE XL PIPELINE.

WHEREAS, the state of Montana, counties, and school districts will benefit substantially by an increase in the property tax base when the Keystone XL Pipeline is approved and completed; and

WHEREAS, the Certificate of Compliance granted by the Department of Environmental Quality in 2012 for the Keystone XL Pipeline states that “the Project will generate long-term property tax revenues for the counties traversed by the pipeline that will last for the life of the Project. The Project will generate approximately \$63 million in annual property tax revenues in Montana”; and

WHEREAS, the on-ramp at Baker, Montana, will allow 100,000 barrels of Bakken oil to be transported daily to Gulf Coast refineries; and

WHEREAS, the selected location of the pipeline through Montana and the conditions imposed by the Certificate of Compliance granted by the Department of Environmental Quality minimize adverse impacts on the environment, landowners, and affected communities; and

WHEREAS, significant infrastructure improvements, including powerlines and road and bridge improvements, will be built and paid for by TransCanada; and

WHEREAS, Montana’s Congressional Delegation has supported the approval of the pipeline; and

WHEREAS, Montana’s Governor Steve Bullock has supported approval of this pipeline.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 65th Legislature urges prompt Congressional and Presidential approval for the Keystone XL Pipeline.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Montana’s Congressional Delegation.

Adopted March 23, 2017

SENATE JOINT RESOLUTION NO. 11

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA TO DEFINE THE PHRASE “SHALL NOT BE CALLED IN QUESTION” AS USED IN ARTICLE II, SECTION 12, OF THE MONTANA CONSTITUTION.

WHEREAS, the current language at Article II, section 12, of the Montana Constitution was first articulated in the Montana Territorial Constitution of 1884; and

WHEREAS, this language was repeated in the Montana Statehood Constitution of 1889 and was also approved by the other several states via Congress; and

WHEREAS, this exact language was repeated verbatim by the Montana Constitutional Convention of 1972, which was approved by the electors of Montana; and

WHEREAS, there is no authoritative definition existing of the phrase “shall not be called in question” that is applied in Article II, Section 12; and

WHEREAS, the phrase “shall not be called in question” is understood to be the strongest form of prohibition that the framers could imagine and express using polite language; and

WHEREAS, the phrase “shall not be called in question” is understood to be a prohibition imposed by the electors of Montana specifically on government policy, government entities, and government actors; and

WHEREAS, in response to a question about what the phrase “shall not be called in question” meant as used in the proposed Article II, section 12, of the Montana Constitution in the 1972 Constitutional Convention, Delegate and Chairman of the Bill of Rights Committee Wade Dahood responded that the phrase meant “that the right shall remain inviolate and shall not be questioned by any person in authority” (transcript of the 1972 Montana Constitutional Convention, Volume 5, Page 1739); and

WHEREAS, the maxims of jurisprudence found at Title 1, chapter 3, part 2, of the Montana Code Annotated are examples of guidance in interpretation of laws.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the phrase “shall not be called in question,” as used in Article II, section 12, of the Montana Constitution, is defined as follows:

(1) Any impairment, restriction, or curtailment of a person’s rights under Article II, section 12, of the Montana Constitution by public policy or governmental actors may not be done unless such impairment, restriction, or curtailment survives an examination more restrictive than strict scrutiny, a level of restraint identified as maximum scrutiny and that meets the criteria provided in subsection (2).

(2) To survive maximum scrutiny requires the following:

(a) A government interest is actually proven and so complete that without impairment, restriction, or curtailment human lives will actually and imminently be at serious risk, or be lost, as demonstrated by current facts in evidence and by clear articulation;

(b) any impairment, restriction, or curtailment is accomplished by a means that cannot be more narrowly limited to achieve its objective as to geography, polity, objects, topics, time frame, societal or political conditions, or class of people affected;

(c) there is convincing evidence that the impairment, restriction, or curtailment will accomplish the intended purpose;

(d) there is convincing evidence that the impairment, restriction, or curtailment will have no consequence in restricting the free action of citizens beyond its intended purpose;

(e) any impairment, restriction, or curtailment is not a prior restraint; and

(f) the impairment, restriction, or curtailment is permissible even though in conformance with subsections (a) through (e).

(3) Keeping or bearing arms, which shall not be called in question:

(a) includes but is not limited to producing, manufacturing, storing, transporting, displaying, marketing, obtaining, selling, transferring, carrying, and wearing arms;

(b) includes but is not limited to both loaded and unloaded arms, ammunition, ammunition components, and arms accessories; and

(c) does not allow any registration, licensing, special taxation, or fees.

(4) The use of arms is an essential and protected child of the protections assured for the right to keep or bear arms, and included within that protection. Notwithstanding such protection, the use of arms may be regulated by statute only, and only if such regulation is not a prior restraint, is narrowly drawn, is essential for public safety, achieves its stated purpose, is free from unintended consequences, does not inhibit self-defense, and does not unreasonably burden hunting opportunity.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Supreme Court and to the Montana Attorney General.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE FEDERAL GOVERNMENT AMEND THE AIRLINE DEREGULATION ACT TO EXEMPT AIR AMBULANCE SERVICE PROVIDERS.

WHEREAS, Montana's Economic Affairs Interim Committee conducted an interim study of air ambulance providers operating in Montana after receiving information of Montana residents being forced into bankruptcy or otherwise financially crippled by bills levied by air ambulance services; and

WHEREAS, the committee found a playing field tilted most severely against a patient needing air ambulance services in Montana, including residents being balance billed for air ambulance services often in the tens of thousands of dollars in excess of insurance coverage; and

WHEREAS, the committee found that the Airline Deregulation Act of 1978, which broadly applies to worldwide commercial air carriers and emergency air ambulance service providers alike, contains an expansive and stifling preemption clause preventing any state from regulating the rates, routes, or services of air ambulance providers; and

WHEREAS, the committee found that although the Airline Deregulation Act is important, the competition expected under that act does not necessarily extend to air ambulances, particularly those serving rural areas like Montana; and

WHEREAS, the committee found that by giving air ambulances immunity from state pricing oversight, the Airline Deregulation Act leaves uninsured, sick customers at the mercy of often out-of-state corporations and furthermore found that even insured patients did not necessarily fare well economically if the air ambulance providing service is not in their network or a preferred provider; and

WHEREAS, the committee found that the shortfalls in the Airline Deregulation Act were further compounded because Medicare and Medicaid lag behind on appropriate reimbursements for air ambulance services; and

WHEREAS, the committee found that other state legislation aimed at protecting its citizens has been invalidated by federal courts under the Airline Deregulation Act's expansive preemption clause; and

WHEREAS, the committee voted unanimously to adopt as two committee bills approaches to help consumers, including a bill to hold insured consumers harmless from balance bills and a bill to revise current Montana law that memberships offered by private air ambulances are an insurance product to be regulated by the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 65th Legislature of the State of Montana urges the federal government to make changes to:

(1) revise the Airline Deregulation Act to allow rate-setting regulation by states through insurance laws for air ambulances either as part of insurance networks or through guidelines that establish reasonable and customary billing, fair-market billing, or billing based on a percentage of Medicare reimbursement rates;

(2) revise the Airline Deregulation Act to prevent balance billing on truly emergency transports;

(3) revise the Airline Deregulation Act to recognize that air ambulance providers that sell memberships may do so without preemption and may be regulated by the state, much as automobile clubs are now regulated; and

(4) require more timely changes to Medicare reimbursement rates for air ambulances to keep up with medical inflation so that air ambulances are not cost-shifting to non-Medicare patients the cost of patients covered by this government program.

BE IT FURTHER RESOLVED, that the Secretary of State be directed to send copies of this resolution to the Speaker of the United States House of Representatives, the majority leader of the United States Senate, the minority leader of the United States Senate, the minority leader of the United States House of Representatives, all three members of Montana's Congressional Delegation, the presiding officer of the Senate Health, Education, Labor, and Pension Committee, the presiding officer of the Senate Commerce, Science, and Transportation Committee, the presiding officer of the House Ways and Means Committee, the presiding officer of the House Transportation and Infrastructure Committee, the United States Secretary of Transportation, and the director of the Federal Aviation Administration.

Adopted April 11, 2017

SENATE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA MAKING THE DETERMINATION THAT IT WOULD BE AN UNCONSTITUTIONAL ACT OF LEGISLATION, IN VIOLATION OF THE CONSTITUTION OF THE STATE OF MONTANA, AND WOULD VIOLATE THE FIRST AMENDMENT RIGHTS OF THE CITIZENS OF MONTANA, SHOULD THE SUPREME COURT OF THE STATE OF MONTANA ENACT PROPOSED MODEL RULE OF PROFESSIONAL CONDUCT 8.4(G).

WHEREAS, the Supreme Court of the State of Montana, at the urging of an Illinois not-for-profit corporation -- the American Bar Association (ABA)-- entered its Order of October 26, 2016, In Re The Rules of Professional Conduct No. AF 09-0688, proposing to adopt ABA Proposed Rule of Professional Conduct 8.4(g); and

WHEREAS, by the close of the Supreme Court's 45 day public comment period the People of Montana overwhelming expressed their virtually unanimous opposition to Proposed Rule 8.4(g) through hundreds of comments pointedly observing that the proposed rule seeks to destroy the bedrock foundations and traditions of American independent thought, speech, and action, and in response, rather than reject the proposed rule at the close of

the comment period, the Supreme Court of the State of Montana relentlessly pursues adoption of Proposed Rule 8.4(g) by extending the time to consider it; and

WHEREAS, Proposed Rule of Professional Conduct 8.4(g) provides it is professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law; and

WHEREAS, Comment [4] to ABA Model Rule 8.4(g) clearly details Model Rule 8.4(g)'s expansive over-reach into every attorney's free speech, opinions, and social activities, when it states: "Conduct related to the practice of law includes representing clients; interacting with witnesses, coworkers, court personnel, lawyers, and others while engaged in the practice of law, operating or managing a law firm or law practice; and participating in bar association, business or social activities in connection with the practice of law"; and

WHEREAS, the ABA is incorporated as a nonprofit corporation under the laws of the State of Illinois, with the stated purpose of promoting the uniformity of legislation throughout the United States without regard to the 50 sovereign state constitutions, thus it was created as a national political advocacy group with a social and political agenda; and

WHEREAS, the ABA, in its legal capacity as a nonprofit corporation is not legally authorized to give legal advice, but rather is engaged in political advocacy and pursues its agenda by proposing rules that may serve as models for the ethics rules of individual states, even though it has no legal capacity to speak on behalf of any attorney nor as the mouthpiece of attorneys throughout the United States, but may only speak as a political advocacy group on behalf of its own corporate social and political agenda; and

WHEREAS, the Illinois corporation in question, the ABA, states that it seeks to force a cultural shift in the legal profession through Proposed Rule 8.4(g), even though the ABA has determined that the conduct sought to be prohibited is so uncommon as to be nearly non-existent (ABA Standing Committee on Ethics, December 22, 2015) and even though ABA's own Committee on Professional Discipline finds the rule to be unconstitutional, for a variety of constitutional reasons (ABA Standing Committee on Professional Discipline, March 10, 2016); and

WHEREAS, pursuant to Article III, section 1, of the Montana Constitution, the power of the government of this state is divided into three distinct branches -- legislative, executive, and judicial -- and that no person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others; and

WHEREAS, pursuant to Article V, section 1, of the Montana Constitution, the legislative power is vested in a Legislature consisting of a Senate and a House of Representatives; and

WHEREAS, the Montana Supreme Court may make rules governing admission to the bar and the conduct of its members; and

WHEREAS, the Constitution for the State of Montana vests the power to enact legislation solely with the Legislature for the State of Montana, including legislation regarding the conduct Proposed Rule 8.4(g) seeks to regulate; and

WHEREAS, the Constitution of the State of Montana vests the Supreme Court with the authority to regulate the conduct of members of the bar, such power is not without limits and such power is limited to regulating conduct which adversely affects the attorney's fitness to practice law, or seriously interferes with the proper and efficient operation of the judicial system; and

WHEREAS, Proposed Rule 8.4(g) would unlawfully attempt to prohibit attorneys from engaging in conduct that neither adversely affects the attorney's fitness to practice law nor seriously interferes with the proper and efficient operation of the judicial system, therefore the scope of Proposed Rule 8.4(g) exceeds the Supreme Court's constitutional authority to regulate the conduct of attorneys; and

WHEREAS, Proposed Rule 8.4(g)'s expansive scope endeavors to control the speech of state legislators, who are licensed by the Supreme Court of the State of Montana to practice law, whether they are speaking on the Senate floor on legislative matters, speaking to constituents about their positions on legislation, or campaigning for office; and

WHEREAS, Proposed Rule 8.4(g)'s expansive scope endeavors to control the speech of legislative staff and legislative witnesses, who are licensed by the Supreme Court of the State of Montana to practice law, when they are working on legislative matters or testifying about legislation before Legislative Committees; and

WHEREAS, Proposed Rule 8.4(g)'s expansive scope endeavors to control the speech of Montanans, who are licensed by the Supreme Court of the State of Montana to practice law, when they speak or write publicly about legislation being considered by the Legislature; and

WHEREAS, Proposed Rule 8.4(g) infringes upon and violates the First Amendment Rights, including Freedom of Speech, Free Exercise of Religion and Freedom of Association, of Montanans who are licensed by the Supreme Court of the State of Montana to practice law, by prohibiting social conduct and speech which is protected by the First Amendment; and

WHEREAS, in order to fulfill their oath to protect and defend the Constitution of the State of Montana, the Legislators of the State of Montana must ascribe the genuine meaning to the words in the Constitution of the State of Montana, for otherwise it is a meaningless collage of alphabetic symbols and the word "conduct" clearly does not include the concept of "speech"; and

WHEREAS, for the reasons set forth in this resolution, adoption of Proposed Rule 8.4(g), by the Supreme Court of the State of Montana, exceeds the authority vested in it by the Constitution for the State of Montana, to regulate the conduct of the members of the bar; and

WHEREAS, for the reasons set forth in this resolution, adoption of Proposed Rule 8.4(g), by the Supreme Court for the State of Montana, violates the Constitution for the State of Montana Article III, section 1, by usurping the legislative power of the Legislature for the State of Montana; and

WHEREAS, Proposed Rule 8.4(g) will deprive the Legislature of Montana specifically and the State of Montana generally, with candid, thorough, and zealous legal representation and will do so, pursuant to Proposed Rule 8.4(g)'s plain meaning, by imposing a speech code on attorneys and chilling their speech by making it professional misconduct for an attorney to socially or professionally say or do anything, including providing legal advice, which could be construed by any person or activist group as discriminatory; and

WHEREAS, Rule 8.4(g) would directly threaten every attorney in the State of Montana, twenty-four hours per day, with the potential loss of their ability to pursue their chosen career, to provide for the needs of their family, and to pursue life, liberty, and the pursuit of happiness, because at any point in time an attorney could be forced to answer for vague complaints, even if the attorney has not participated in historically unprofessional practices, thereby threatening such attorney's reputation, time, resources, and license to practice law; and

WHEREAS, Proposed Rule 8.4(g) will deprive Montanans and associations of Montanans, with candid, thorough, and zealous legal representation, and Proposed Rule 8.4(g) will do so pursuant to its plain meaning by imposing a speech code on attorneys and chilling their speech by making it professional misconduct for an attorney to say or do anything, including providing legal advice, which could be construed by any person as discriminatory; and

WHEREAS, contrary to the ABA's world view, there is no need in a free civil society, such as exists in Montana, for the cultural shift forced by the proposed rule, and even if such a need did exist, the Supreme Court has no constitutional power to enact legislation of any sort, particularly legislation forcing cultural shift.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That should the Supreme Court of the State of Montana adopt Proposed Rule 8.4(g), it would be an unconstitutional exercise power by that Court.

(2) That if Proposed Rule 8.4(g) is adopted by the Supreme Court of the State of Montana, such rule is unconstitutional and thereby null and void because:

(a) the Constitution of the State of Montana reserves the power of legislation to the Legislature of Montana;

(b) the scope of Proposed Rule 8.4(g) exceeds the Supreme Court's constitutional power to regulate the speech and conduct of attorneys; and

(c) Proposed Rule 8.4(g) infringes upon the First Amendment rights of the Citizens of Montana.

(3) That the Secretary of State send a copy of this resolution to the President of the United States, the United States Supreme Court, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, to each member of the Montana Congressional Delegation, the Montana Supreme Court, the Governor of every State in the Union, the American Bar Association, and the Montana Bar Association.

Adopted April 10, 2017

SENATE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE 150TH ANNIVERSARY OF THE BIRTH OF MONTANA'S MILITARY EXPERIENCE, THE 130TH ANNIVERSARY OF THE FORMATION OF THE MONTANA NATIONAL GUARD, THE 100TH ANNIVERSARY OF THE FORMATION OF THE 163RD INFANTRY REGIMENT, AND THE 70TH ANNIVERSARY OF THE MONTANA AIR NATIONAL GUARD; AND DECLARING THAT 2017-2018 BE RECOGNIZED AS THE ERA OF RECOGNITION AND COMMEMORATION FOR MILITARY SERVICE.

WHEREAS, on July 14, 1867, Montana Territorial Governor Green Clay Smith issued General Order No. 1 in Virginia City, officially authorizing the organization of Montana volunteer forces and formally naming them the First Regiment of Montana Volunteers; and

WHEREAS, the Montana volunteers, including a volunteer cavalry regiment, were initially the Montana Territorial Volunteers and were mustered by Territorial Secretary Thomas Meagher while serving as Acting Governor in 1867 during Governor Smith's absence; and

WHEREAS, on July 27, 1877, Montana Territorial Governor Benjamin F. Potts issued a proclamation that authorized activation of volunteers, called the Montana Territorial Volunteer Militia; and

WHEREAS, in 1885, House Bill No. 20 passed, authorizing the organization of a national guard for the territory, and the First Montana Infantry, National Guard, mustered its first company in Virginia City; and

WHEREAS, because the need for a state militia was recognized, the Montana Infantry Regiment was reorganized as the Montana National Guard, effected under the Territorial Legislative Act entitled “An Act to Organize and Regulate the Militia, Approved March 10, 1887”; and

WHEREAS, on May 2, 1898, Montana was authorized to raise volunteers for a regiment of infantry, the 1st Montana Infantry Regiment volunteered as United States Volunteers, and under the command of Colonel Harry C. Kessler, the regiment served in the Spanish-American War and subsequently the Philippine Insurrection, in 1898-99, in which it participated in seven major battles as part of the overall command of Major General Arthur MacArthur; and

WHEREAS, the 2nd Montana Infantry, as successor to the 1st Montana Infantry, participated in the Mexican Border Conflict in 1916, and under the command of Colonel “Dynamite” Dan J. Donohue, its mission was to protect border towns and U.S. holdings along the Arizona border; and

WHEREAS, the 2nd Montana Infantry, on August 5, 1917, was redesignated as the 163rd Infantry Regiment of the 41st Infantry Division and went on to fight in World War I along with many fellow Montanans who volunteered or were conscripted to serve, and according to Joseph Kinsey Howard, “In World War I, more Montana boys marched away in proportion to population than any other state and more than any other state, proportionately, would never march anywhere again. . . .”; and

WHEREAS, the 163rd Infantry Regiment of the 41st Infantry Division responded to the call of 1 year of duty on September 16, 1940, which turned into 5 years of military service during World War II, and of the regiment, Joseph Kinsey Howard said, “In World War II as in World War I, Montanans were quick to enlist, and they were healthy . . . on the home front Montana also had the record of oversubscribing in 8 World War II Savings Bond drives”; and

WHEREAS, the Montana National Guard was reconstituted in 1946 as the 163rd Infantry Regimental Combat Team, Montana Army National Guard, and received federal recognition on July 27, 1947; and

WHEREAS, the Montana Air National Guard came into being on June 27, 1947, some 70 years ago when the 186th Fighter Squadron was formed, and the 186th Fighter Squadron later transformed into the 120th Fighter Wing; and

WHEREAS, Montana men and women have proudly served the nation and state in the forgotten Korean Conflict, Vietnam War, and the Cold War; and

WHEREAS, in 1991, the Montana National Guard served the nation as represented by the 103rd Public Affairs Detachment in Southwest Asia during Operation Desert Shield and Operation Desert Storm, along with more than 3,000 other Montanans serving in the active and reserve components; and

WHEREAS, in 1996, the 103rd Public Affairs Team and other Montana Army and Air National Guard units and service members served in peace enforcement duties as a part of Operation Joint Endeavor; and

WHEREAS, in the years between 1996 and 2000 various units of the Montana Army and Air National Guard have served in various peacekeeping rolls in the Pacific, Southwest Asia, and Europe; and

WHEREAS, from July 23, 2000, to September 7, 2000, 2,078 soldiers and airmen and women from the Montana Army and Air National Guard were called to state active duty in support of 17 wild land fire incidents in Montana; and

WHEREAS, the Montana National Guard, composed of men and women throughout Montana, serving their community, State, and Nation, have been trained, diligent, and accessible during times of need in over 40 incidents of mobilization to state active duty from 1910 to the present; and

WHEREAS, since the terrorist attacks on September 11, 2001, the Montana Army and Air National Guard has mobilized and deployed nearly 3,000 soldiers and airmen and women for active duty, including state and federal active duty, to support federal security operations and global operations such as Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn in Southwest Asia, and stabilization operations in Bosnia; and

WHEREAS, members of the Montana Army and Air National Guard supported Operation Installation Security and Operation Airport Security to protect Montana's 14 airports, provide security for the 2002 Winter Olympics in Utah, and support federal security efforts by providing soldiers at 10 points of embarkation along the Montana-Canadian border; and

WHEREAS, members of the 1/163rd Infantry Regiment recently deployed for Operation Sabre Guardian to Romania to exercise the capabilities of U.S. Forces to respond to potential crises in the area of Eastern Europe as a part of NATO forces; and

WHEREAS, elements of the Montana Air National Guard have continuously deployed and are continuing to deploy in response to national security objectives; and

WHEREAS, it is fully recognized that these required mobilizations and deployments of Montana Army and Air National Guard members have adverse affects on families, work, and communities due to the temporary loss of the service members and also have social and financial costs; and

WHEREAS, the fine tradition of service to Montana and the United States is ably demonstrated by the nearly 230,000 Montana veterans who have participated in all branches of the service during the past 150 years; and

WHEREAS, current and new military veterans continue to contribute their strength to Montana by providing leadership in business, government, and industry and continue to add value to Montana; and

WHEREAS, it is our duty and responsibility to support them, remember them, and help them in time of need.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognize the many Montanans who have served in the past and who currently serve in the military to make Montana and the United States a better place.

BE IT FURTHER RESOLVED, that the Montana Legislature declare that 2017-2018 be recognized as the Era of Recognition and Commemoration of the military personnel in service to their nation and encourage that expressions of recognition be afforded to all currently serving in the military and to all military veterans of Montana.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana National Guard for distribution to each unit, to the Montana Board of Veterans' Affairs for distribution to each veterans' service organization, to the Veterans Affairs Medical Center at Fort Harrison,

and to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING POLICIES FOR ADVANCED TRANSMISSION LINES.

WHEREAS, a secure, reliable, and resilient power grid integrating generation resources serves as a foundation of a growing economy and is critical to national security; and

WHEREAS, regulators, policymakers, and consumers expect generating resources and the grid to perform extremely reliably; and

WHEREAS, a significant portion of the nation's transmission facilities are old and urgently require replacement and substantial upgrading; and

WHEREAS, environmental regulations, state renewable and clean energy portfolio standards with mandated deadlines, state and federal tax policies, other economic factors, and technology developments are causing some electric generation resources to retire, while substantial replacement generation, some of it fueled by intermittent resources, is being or is planned to be sited at other locations on the electric grid; and

WHEREAS, the risk of catastrophic wildfire on federal and state forest lands threatens the network of power transmission and distribution lines, and strengthening the nation's grid with advanced technology can increase the grid's resiliency and reliability; and

WHEREAS, new innovative cost-effective transmission technologies, including but not limited to high-capacity and high-efficiency conductors and compact transmission towers, are commercially available with revolutionary, extraordinarily high-performance levels compared to other technologies to address aged circuit and new generation issues, including greater increases in grid capacity, greater improvements in energy transfers, significantly greater stability and resiliency, greater efficient use of existing and new rights-of-way, substantial reduction in transmission line losses, streamlining siting and construction activities, and more rapidly bringing new and replacement circuits into service; and

WHEREAS, new and advanced replacement transmission facilities can be designed and deployed to enable a wide variety of new generating resources and can address technical, environmental, and aesthetic issues that could impede or limit the development and operation of resources so states can achieve public policy goals on set schedules; and

WHEREAS, crowded utility corridors often allow little room for expansion; and

WHEREAS, some states have established minimal requirements for approving transmission projects that use existing corridors with de minimis impacts; and

WHEREAS, at least one state has established a policy that encourages regulators and grid operators to support and encourage consideration of advanced transmission line technologies to cost-effectively deliver benefits; and

WHEREAS, policy associations, including the National Association of Regulatory Utility Commissioners, the Southern Legislative Conference, the Midwest Legislative Conference, the Council of State Governments, and the

Southern States Energy Board, recognize the specific benefits of technologies to quickly and substantially modernize the grid and improve generating resource integration; and

WHEREAS, great benefits will flow from advanced technologies on a cost-per-energy-unit-delivered or other basis, so state legislators, electric utilities, grid operators, and state public service commissions are encouraged to optimize investment decisions around the cost-effective use of technologies to yield extraordinarily high performance from them.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 65th Legislature encourage efforts to support:

(1) the investigation and consideration of new advanced transmission technologies that offer revolutionary performance benefits when replacing aged transmission infrastructure;

(2) the evaluation of new advanced transmission technologies to determine whether they are best able to cost-effectively ensure the continued reliable delivery of electricity while providing revolutionary greater capacity and revolutionary enhanced efficiency on schedules required to meet the state's public policy objectives;

(3) the consideration of the ability of these technologies to greatly reduce environmental and visual impacts to communities; and

(4) the consideration of the ability of these and other technologies to greatly reduce the overall cost of energy delivery.

BE IT FURTHER RESOLVED, that the 65th Legislature encourage efforts to work with regional transmission organizations, independent system operators, and other planning authorities to compare the cost-effective, revolutionary performance of advanced electric transmission infrastructure options to the performance of other technologies for increasing grid capacity, reducing transmission line losses, improving energy transfers, making more efficient use of rights-of-way, improving energy efficiency, and encouraging the shortest timeframes be put in service by streamlining siting and construction activities in their planning, evaluation, and oversight of transmission grid development, especially by utilizing existing transmission corridors.

BE IT FURTHER RESOLVED, that the 65th Legislature encourage the inclusion of supplemental or new policies of transmission facilities that promote revolutionary, rather than incremental, performance and the benefits of the appropriate use of cost-effective advanced electric transmission technologies in support of their interest in the continued, timely provision of affordable, reliable electricity to consumers.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of Montana, the Governors of North Dakota, South Dakota, Wyoming, and Idaho, members of the Montana Public Service Commission, the Montana Rural Electric Cooperatives' Association, the Bonneville Power Administration, the Pacific NorthWest Economic Region, NorthWestern Energy, Montana-Dakota Utilities Co., and members of Montana's Congressional Delegation.

Adopted April 11, 2017

SENATE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THE

CENTERS FOR DISEASE CONTROL AND PREVENTION RECONSIDER THE APPROPRIATENESS OF LISTING BRUCELLA ABORTUS AS A BIOTERRORIST AGENT TO FACILITATE RESEARCH INTO THE TRANSMISSION OF THE PATHOGEN TO CATTLE AND DOMESTIC BISON.

WHEREAS, *Brucella abortus* is listed as a potential bioterrorist agent or “select agent” by the United States Department of Agriculture and the Centers for Disease Control and Prevention; and

WHEREAS, in order to eradicate *Brucella abortus* in cattle and domestic bison, a vaccine must be developed that is effective, but because research on select agents is highly regulated and requires costly investments in secure infrastructure, the number of facilities that are able to perform research on the pathogen in large animals has been greatly reduced; and

WHEREAS, because *Brucella abortus* is listed as a select agent it cannot be brought inside for the studies that could lead to an effective vaccine, which is an absurd situation for veterinary research facilities in the region.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Department of Agriculture’s Animal and Plant Health Inspection Service and the Centers for Disease Control and Prevention:

(1) reconsider the appropriateness of listing *Brucella abortus* as a select agent;

(2) focus bioterrorism regulations on the *Brucella* pathogens that pose the greatest risk to humans; and

(3) facilitate research into the transmission of the pathogen to cattle and domestic bison by promoting research to develop an effective vaccine and delivery system.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the directors of the United States Department of Agriculture’s Animal and Plant Health Inspection Service and the Centers for Disease Control and Prevention and to the Montana Congressional Delegation.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF FACTORS AFFECTING UNEMPLOYMENT IN HIGH-POVERTY AREAS AND POTENTIAL SOLUTIONS.

WHEREAS, Montana’s unemployment rate of 4.0% in December 2016 was below the nation’s average of 4.7%, an indication of healthy employment yet one that, as a statewide average, smooths over the complex differences between urban areas, where jobs are more plentiful and more varied, and many smaller communities, some of which have high unemployment, low levels of job openings, and high poverty rates; and

WHEREAS, unemployment data currently accounts only for people who are working or looking for work but misses people who are not counted as being in the labor force, including people who have given up looking for work because no jobs exist or accommodations are not made for disabilities or for family obligations that require intermittent absences or additional availability of caregivers; and

WHEREAS, many grants promoting improved work opportunities or increased access to jobs and technological infrastructure rely on unemployment

data, which means that smoothed-out but timely data is a disadvantage for high-unemployment areas of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to examine the many factors involved in unemployment, including:

- (1) lack of jobs and whether the available jobs:
 - (a) require skills not available in the general locale;
 - (b) pay a wage with benefits, including paid leave, health insurance, or contributions toward retirement benefits;
- (2) lack of transportation to jobs and the corollary costs and impact in cases in which employers provide transportation to jobs;
- (3) lack of child care or elder care and the corollary costs and impact in cases in which employers provide onsite child care; or
- (4) lack of accommodation for disabilities and the corollary costs and impact in cases in which employers provide accommodations for disabilities.

BE IT FURTHER RESOLVED, that consultants familiar with the differences related to the terms “discouraged worker”, “marginally attached worker”, “available for work and not working”, and similar descriptions be invited to discuss the philosophy about unemployment in Montana’s high-poverty areas, including on Indian reservations, and whether improved understanding of reasons behind unemployment might help redirect resources to improve job growth in high-poverty areas.

BE IT FURTHER RESOLVED, that the interim committee examine:

- (1) the location and placement success of job service or third-party equivalent services, along with the programs put in place with employers at each job service for apprenticeships or other training opportunities;
- (2) course offerings at community and tribal colleges as they relate to local employer needs and activities within communities aimed at improving responsiveness for employer job openings;
- (3) availability of internet and broadband services and other components that enable workers to either leave home for jobs or work at home.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 24, 2017

SENATE JOINT RESOLUTION NO. 21

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF EMERGENCY MEDICAL SERVICE AND VOLUNTEER FIRE PROTECTION SERVICE SYSTEMS; REQUESTING THAT THE STUDY EXAMINE COVERAGE AREAS, PERSONNEL SHORTAGES, TRAINING REQUIREMENTS, EQUIPMENT NEEDS, AND COMPENSATION; AND REQUESTING THAT STRATEGIES FOR ENHANCING THE VIABILITY AND SUSTAINABILITY OF THE SERVICES BE INCLUDED IN A STUDY REPORT.

WHEREAS, the Montana Legislature recognizes the need for quality emergency medical services and an effective emergency care system that provides quality care and treatment for victims of sudden and serious injury or illness from first response through initial stabilization and subsequent emergency treatment; and

WHEREAS, the Montana Legislature also recognizes the need for volunteer firefighters throughout the state to provide prompt fire protection services as well as medical first responder services; and

WHEREAS, many factors are contributing to a shortage of volunteer emergency medical service providers and volunteer firefighters, including changing demographics, employers' resistance to allowing volunteers to serve, and lack of incentives to serve; and

WHEREAS, emergency medical and volunteer fire protection services are particularly important in less densely populated areas where access to health care and fire protection services is often limited; and

WHEREAS, the vital nature of emergency medical and fire protection services and the state of constant readiness required to maintain adequate services pose special challenges for rural communities, including adequate funding; recruitment, retention, and training of volunteers and other personnel; and modern communications and medical services and fire protection equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the availability, viability, and sustainability of emergency medical and volunteer firefighter services in Montana.

BE IT FURTHER RESOLVED, that the committee or assigned staff:

(1) assess the current emergency medical care and volunteer fire protection systems in Montana;

(2) examine statutory and nonstatutory training and education requirements for emergency medical service providers and volunteer fire protection providers;

(3) examine the size of the coverage areas and populations that local emergency medical providers and volunteer fire protection providers serve;

(4) identify areas of the state where personnel shortages, long distances to travel to an incident, insufficiency of equipment, and other factors are resulting in delayed response times and inadequate response;

(5) review adequacy of equipment, including vehicles, medical equipment, and communications equipment available to the providers;

(6) examine compensation, benefits, and incentives offered to personnel and explore alternatives to funding emergency medical and fire protection services; and

(7) identify and report on strategies for enhancing the viability and sustainability of the services.

BE IT FURTHER RESOLVED, that the participants in the study include but not be limited to local emergency service providers; local volunteer fire protection providers; emergency medical services systems; hospitals, physicians, and other health care providers; representatives of local governments; tribal disaster and emergency services agencies; organizations that represent emergency medical service providers, volunteer firefighters, fire chiefs, and other appropriate entities; the Department of Public Health and Human Services; and the Disaster and Emergency Services Division of the Department of Military Affairs.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 24, 2017

SENATE JOINT RESOLUTION NO. 23

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO REVIEW THE FAIRNESS AND SUSTAINABILITY OF THE CURRENT CLASSIFICATION AND TAXATION OF UTILITY, CENTRALLY ASSESSED, AND INDUSTRIAL PROPERTY IN MONTANA AND THE APPRAISAL METHODS USED TO ESTABLISH TAXABLE VALUE FOR UTILITY AND INDUSTRIAL PROPERTY.

WHEREAS, centrally assessed property is included in class five, class nine, class twelve, class thirteen, class fourteen, class fifteen, and class sixteen; and

WHEREAS, industrial property is included in class four and class eight; and

WHEREAS, the Montana Department of Revenue reported that in 2016, centrally assessed property constituted approximately 9.2% of market value of all taxable property in Montana but paid approximately 25.8% of all property taxes; and

WHEREAS, the Legislature desires to review the tax rates, valuation methodology, and taxes paid by centrally assessed and industrial property in comparison to other classes of property and property ownership.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) review the fairness, sustainability, and legal basis of the current classification and taxation of centrally assessed and industrial property in Montana;

(2) compare the total state tax burdens imposed on utility customers in Montana with the total state tax burdens imposed on utility customers in other states;

(3) review the appraisal methods used by the Montana Department of Revenue to establish the market value, as required by the Montana Constitution and statutory law, of utility and industrial property;

(4) review dispute review procedures with specific attention to the timeline for resolving disputes informally; and

(5) consider any other matters relating to central assessment or industrial property, such as equalization with other classes of property, the exemption of intangible personal property, and potential impacts on schools, local governments, and other property taxpayers, that the committee considers appropriate.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 25, 2017

SENATE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY ON THE EXTENT OF THE USE OF SOLITARY CONFINEMENT IN STATE AND COUNTY INSTITUTIONS IN MONTANA.

WHEREAS, solitary confinement means to house an adult or juvenile with minimal or rare meaningful contact with other individuals; and

WHEREAS, solitary confinement is referred to in a variety of ways, including administrative, protective, or disciplinary segregation, lockdown, and secure housing; and

WHEREAS, there has been increased controversy about the use of solitary confinement in the nation's jails, prisons, and juvenile detention centers; and

WHEREAS, the National Commission on Correctional Health Care found that "it is well established that persons with mental illness are particularly vulnerable to the harms of solitary confinement"; and

WHEREAS, a task force appointed by the U.S. Attorney General found in 2012 that solitary confinement of juveniles produces symptoms of "paranoia, anxiety and depression even after very short periods of isolation" and that these youth who spend extended time in isolation are most likely to attempt or actually commit suicide; and

WHEREAS, the National Commission on Correctional Health Care has found that solitary confinement that lasts more than 15 days is cruel, inhuman, and degrading treatment and harmful to an individual's health and recommends that solitary confinement be eliminated for juveniles and the mentally ill; and

WHEREAS, solitary confinement is a practice that is currently used in Montana with individuals who are detained by the state for various offenses; and

WHEREAS, the extent of the use of this practice in Montana with juveniles and adults with mental health diagnoses is not fully known.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the extent of the use of solitary confinement in state and county institutions in Montana.

BE IT FURTHER RESOLVED, that the study review:

(1) existing solitary confinement practices in Montana jails, prisons, and juvenile detention facilities;

(2) the reasons that solitary confinement is utilized in each institution;

(3) facility, state, or county policies in place regarding the use of solitary confinement for juveniles and individuals with mental illness;

(4) changes that can be made to reduce or eliminate the use of solitary confinement for juveniles and individuals with mental illness;

(5) methods used in other states that have effectively reduced or eliminated the use of solitary confinement for juveniles and individuals with mental illness; and

(6) other related topics that the committee considers relevant to a better understanding of the topic.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 25, 2017

SENATE JOINT RESOLUTION NO. 27

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE MONTANA STATE FUND AND OPTIONS FOR PROVIDING WORKERS' COMPENSATION INSURANCE IN MONTANA.

WHEREAS, in 2015 the Montana State Fund, also known as the Montana State Compensation Insurance Fund, was legislatively assigned to be under the regulatory oversight of the State Auditor's Office but not required, as the provider of a guaranteed market of workers' compensation in this state, to pay insurance tax premiums; and

WHEREAS, while one bill in the 2017 Legislature sought to dissolve the Montana State Fund and another bill looked at moving the Montana State Fund toward a domestic mutual insurer, each bill posed unknown repercussions for the many small businesses and agricultural interests that rely on the Montana State Fund as a guaranteed market for workers' compensation insurance; and

WHEREAS, Montana's workers' compensation premium rates ranked as the 11th highest in the nation as measured by the Oregon Workers' Compensation Premium Rate Ranking for Calendar Year 2016, and the role of the Montana State Fund is worth examining in light of those rates.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate the Economic Affairs Interim Committee, pursuant to section 5-5-217, MCA, to study:

(1) the role and costs of the Montana State Compensation Insurance Fund in providing the guaranteed market in Montana; and

(2) alternate options available for providing workers' compensation insurance, focusing on what is most cost-effective and in the best interest of the state, Montana employees, and Montana employers.

BE IT FURTHER RESOLVED, that the interim committee establish a subcommittee to hear presentations and craft legislation that contains changes determined by the study to be necessary as related to the Montana State Compensation Insurance Fund and that, based on the number of additional meetings that may be required, the interim committee submit a request to the Legislative Council for additional funding of the topic as an emerging issue.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September

15, 2018, and that the final results of the study, including any findings, conclusions, or recommendations of the interim committee, be reported to the 66th Legislature.

Adopted April 24, 2017

SENATE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE IMPORTANCE OF AND SUPPORTING THE COMMISSIONING OF THE USS BILLINGS, NAMED AFTER THE CITY OF BILLINGS.

WHEREAS, the City of Billings, Montana, will be one of five U.S. cities to have a new ship named after it, the first ship to bear the city's name; and

WHEREAS, the USS Billings (LCS-15) will be a Freedom class littoral combat ship or LCS, "littoral" referring to coastal or intertidal water, and will be a fast, agile combatant, providing the required war fighting capabilities and operational flexibility to execute focused missions close to the shore; and

WHEREAS, the USS Billings is currently under construction in Marinette, Wisconsin, and is expected to be ready for commissioning in 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That we be supportive of all those who sail the USS Billings, for fair winds and following seas, during service to our nation.

BE IT FURTHER RESOLVED, that we be supportive of the establishment of the new connection and tradition that form a bond between a city and the sailors and marines who serve on the namesake ship, the USS Billings.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE IMPORTANCE OF THE USS MONTANA AND COMMENDING THE WORK OF MONTANANS IN THE SUPPORT FOR THE COMMISSIONING AND FOR ALL THOSE WHO SAIL HER.

WHEREAS, a new Virginia Class nuclear attack submarine (SSN 794) to be named the USS Montana is under construction for the United States Navy in Virginia; and

WHEREAS, the USS Montana, with its leading-edge stealth and other technology, will be a key component of the U.S. Navy fleet, capable of a wide range of missions, and its commissioning as a member of the U.S. Navy fleet is expected in the year 2020; and

WHEREAS, the USS Montana will represent the strength and determination of our state as she sails the world's oceans; and

WHEREAS, this warship will continue and build upon the proud legacy of the first and only other operational USS Montana, an armored cruiser (ACR 13) commissioned in July of 1908 that served with distinction through and beyond World War I; and

WHEREAS, Montana citizens have created the USS Montana Committee, a Montana nonprofit corporation, to provide support for the commissioning of the USS Montana and for all those who sail her as they protect our nation; and

WHEREAS, the USS Montana Committee will continue to work to build and maintain a relationship between our state and the crew of our namesake warship and provide financial and other assistance to complement that which the U.S. Navy is able to provide; and

WHEREAS, all Montanans and all Americans will be proud of the future roles of the USS Montana and its crew members.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That we wish protection for all those who sail the USS Montana, for fair winds and following seas, during her service to our nation.

BE IT FURTHER RESOLVED, that we commend the work of the USS Montana Committee and its support of the USS Montana and crew.

Adopted April 22, 2017

SENATE JOINT RESOLUTION NO. 31

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF UTILITY DECOUPLING.

WHEREAS, decoupling is a policy that separates a regulated utility's profits from its total electric or gas sales so a utility isn't incentivized to sell more electricity or gas; and

WHEREAS, decoupling itself is not a tool for increasing energy efficiency but is instead a ratemaking function that removes what may be viewed as a utility incentive to discourage energy efficiency and distributive generation; and

WHEREAS, decoupling ensures that utilities have a reasonable opportunity to collect roughly the same revenue that they would under conventional regulation, independent of changes in sales volume; and

WHEREAS, other states are exploring and utilizing various forms of decoupling mechanisms.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) identify the merits and drawbacks of different forms of utility decoupling;
- (2) review options under decoupling to address sales fluctuations;
- (3) examine the potential impacts to ratepayers and utilities, depending on the design of a decoupling mechanism; and
- (4) make recommendations on how and if Montana should pave a path toward the objectives of decoupling.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

Adopted April 27, 2017

SENATE JOINT RESOLUTION NO. 32

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN APPROPRIATE LEGISLATIVE INTERIM COMMITTEE STUDY EMERGENCY CARE PROVIDER TRAINING AND SCOPE OF PRACTICE AND THEIR ROLE IN THE HEALTH CARE SYSTEM AND REPORT ITS FINDINGS AND ANY RECOMMENDATIONS TO THE 66TH LEGISLATURE.

WHEREAS, Senate Bill No. 104 (2017) proposed allowing licensed emergency care providers to provide care within their current scope of practice but in nonemergency settings as part of a community integrated health care system; and

WHEREAS, House Bill No. 612 (2017) proposed allowing emergency care providers who receive additional training to earn an endorsement as a community veteran emergency care provider to provide community-based care to veterans and their families; and

WHEREAS, the Legislature acknowledges the merit of each bill and the need for an indepth examination of how licensed emergency care providers may be able to meet critical health care needs in nonemergency settings and in providing needed health care services to veterans and their families, including suicide prevention.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to examine:

(1) the current statutory structure of laws governing emergency medical care, the training, licensure, and scope of practice of emergency care providers, and how those statutes may need to be updated;

(2) the role emergency care providers play in the overall health care system and whether and how that role could be better integrated into providing community-based health care to prevent medical emergencies requiring hospitalization; and

(3) the special health care needs of veterans and their families, including the need for suicide prevention, how a special additional endorsement as a community veteran emergency care provider would help meet those needs, and the scope of services allowed under such an endorsement.

BE IT FURTHER RESOLVED, that the study include input from interested stakeholders, including but not limited to the board of medical examiners, the department of labor and industry, the department of public health and human services, the department of military affairs, the Montana medical association, the Montana hospital association, ambulance services, entities that provide education and training for emergency care providers, emergency care providers, veterans and their families, and the office of public instruction as the state approving authority for training that may be paid for using a veteran's educational benefits.

BE IT FURTHER RESOLVED, that all aspects of the study be concluded prior to September 15, 2018.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, or recommendations of the appropriate interim committee, be reported to the 66th Legislature.

Adopted April 26, 2017

Senate Resolutions

SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA
ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
OF MONTANA:

That the following Senate Rules be adopted:

RULES OF THE MONTANA SENATE

CHAPTER 1

Administration

S10-10. Officers of the Senate. The officers of the Senate include a president, a president pro tempore, a majority leader, a minority leader, and majority and minority whips.

S10-20. Term of office. The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

S10-30. President, President pro tempore, and other officers. (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator as President and a Senator as President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

S10-40. Voting by presiding officer. Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

S10-50. Presiding officer and duties. (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the President when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(6) The President shall approve the calendar for each legislative day.

(7) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(8) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(9) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

S10-60. Succession. (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the Senate have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature and wants to appoint an acting President during the President's absence, the President may do so, or the members of the Senate have the right to immediately nominate and elect an acting President of the President's caucus.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

S10-70. President-elect. The President-elect nominated by the appropriate party caucus has the responsibility and authority to assume the duties of President of the Senate.

S10-80. Legislative Administration Committee duties. (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

S10-90. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

(2) helping the President develop the calendar;

(3) assisting the President with program development, policy formation, and policy decisions;

(4) presiding over the majority caucus meetings; and

(5) other duties as assigned by the caucus.

S10-100. Majority Whip. The duties of the majority whip may include but are not limited to:

(1) assisting the majority leader;

(2) ensuring member attendance;

(3) counting votes;

(4) generally communicating the majority position; and

(5) other duties as assigned by the caucus.

S10-110. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

(1) developing the minority position;

(2) negotiating with the majority party;

(3) directing minority caucus activities on the chamber floor;

- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

S10-120. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

S10-130. Senate employees. (1) In addition to the employees appointed by the President, the Senate shall employ staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) The Secretary of the Senate shall designate a secretary to take and prepare written minutes of committee meetings for each standing committee. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) The President, majority leader, and minority leader may each appoint a private secretary.

S10-140. Secretary of the Senate and duties. The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

- (1) performing the duties prescribed by law or other provisions of these rules;
- (2) serving as parliamentary advisor to the Senate;
- (3) compiling and maintaining the calendar for approval by the President;
- (4) keeping the leadership informed on the progress and workload of the Senate;
- (5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;
- (6) keeping and maintaining records of the Senate; and
- (7) supervision of the Senate employees, except as otherwise provided.

S10-150. Sergeant-at-Arms duties. Under the direction of the President, the Sergeant-at-Arms shall:

- (1) maintain order as directed by the President or chair of the Committee of the Whole;
- (2) enforce the lobbying rules of the Senate;
- (3) supervise the employees assigned to the Sergeant's office;
- (4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;
- 5) perform duties as required by other rules and the Senate.

S10-160. Legislative aides. Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

S10-170. Senate journal. (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal by the journal clerks trained by the Legislative Services Division under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

- (a) committee reports;
 - (b) every motion, the name of the Senator presenting it, and its disposition;
 - (c) the introduction of legislation in the Senate;
 - (d) consideration of legislation subsequent to introduction;
 - (e) roll call votes;
 - (f) messages from the Governor and the House of Representatives;
 - (g) every amendment, the name of the Senator presenting it, and its disposition;
 - (h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and
 - (i) any other records the Senate directs by rule or action.
- (4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and made available.
- (5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.
- (6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

CHAPTER 2

Decorum

S20-10. Questions of order – appeal. The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

S20-20. Violation of rules – call to order – appeal. (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority leader or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. Censure consists of an official public reprimand of a Senator for inappropriate behavior. The Senate shall act upon the recommendation of the Committee.

S20-30. Questions of privilege – restrictions. (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

S20-40. Recognition by chair. A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

S20-50. Floor privileges. (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) registered representatives of the media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1) or (2).

S20-60. Communications to Senate. A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

S20-70. Distribution of materials on floor – exception. (1) Subject to subsection (2), material may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

(2) Subsection (1) does not apply to material written by staff at the request of a Senator and placed on the Senator's desk.

CHAPTER 3

Committees

S30-10. Committee appointments. (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The minority leader shall designate the ranking minority member for each standing committee.

(4) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(5) The Senate may change the membership of any committee on 1 day's notice.

S30-20. Standing committees – classification. (1) The standing committees of the Senate are as follows:

(a) class one committees:

(i) Business, Labor, and Economic Affairs;

(ii) Finance and Claims;

- (iii) Judiciary; and
- (iv) Taxation;
- (b) class two committees:
 - (i) Education and Cultural Resources;
 - (ii) Local Government;
 - (iii) Natural Resources;
 - (iv) Public Health, Welfare, and Safety; and
 - (v) State Administration;
- (c) class three committees:
 - (i) Agriculture, Livestock, and Irrigation;
 - (ii) Energy and Telecommunications;
 - (iii) Fish and Game; and
 - (iv) Highways and Transportation; and
- (d) on-call committees:
 - (i) Ethics;
 - (ii) Legislative Administration; and
 - (iii) Rules.

(2) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(3) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the pre-session caucus.

S30-40. Ex officio members -- quorum. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The majority leader and the minority leader are ex officio nonvoting members of all committees in order to establish a quorum. As ex officio nonvoting members of a committee, the majority leader and minority leader have the privileges of a committee member pursuant to S30-70(13)(a), (13)(c), and (13)(d).

S30-50. Chair's duties. (1) The chair of a committee is the presiding officer of that committee and is responsible for:

- (a) maintaining order within the committee room and its environs;
- (b) scheduling hearings and executive action;
- (c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and
- (d) authenticating committee reports by signing them and submitting them promptly to the Secretary of the Senate. The chair shall sign business reports reflecting action taken in each committee meeting that enable the preparation of committee minutes. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

S30-60. Meetings -- notice -- purpose -- minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

- (a) prior to the third legislative day;
 - (b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing;
 - (c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session;
- or

(d) due to appropriate circumstances.

(3) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(4) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

(5) A committee or subcommittee may be assembled for:

- (a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;
- (b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or
- (c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(6) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(7) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(8) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

- (a) the time and place of each meeting of the committee;
- (b) committee members present, excused, or absent;
- (c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;
- (d) all motions and their disposition;
- (e) the results of all votes; and
- (f) all testimony and exhibits.

(9) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but shall take executive action and may report the bill to the Committee of the Whole.

(10) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(11) A bill may be rereferred at any time before its passage.

S30-70. Procedures – member privileges. (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a committee shall finally dispose of a bill without a hearing. Except as provided in S30-60(9), a bill may not be reported from a committee without a hearing.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all proposed changes; and

(d) a fiscal note, if required.

(6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the Senate that are formally adopted when the committee report is accepted by the Senate.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the Committee of the Whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chair;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form.

(14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

S30-80. Public testimony -- decorum -- time restrictions. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) (a) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(b) A person who is an employee of the state or a political subdivision of the state that is offering testimony on behalf of the state or political subdivision shall state in person's oral or written testimony the specific entity or state officeholder that they are representing.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

S30-100. Pairs prohibited -- absentee or proxy voting. Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia. Authorization for absentee or proxy voting must be reflected in the committee minutes.

S30-140. Reconsideration in committee. A committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

S30-150. Committee requested legislation. (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the drafting and introduction of legislation.

(b) The Finance and Claims Committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

S30-160. Ethics Committee. (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. The issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

(i) 2-2-103;

(ii) 2-2-104;

(iii) 2-2-111;

(iv) 2-2-112;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

(4) A Senator may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.

CHAPTER 4

Legislation

S40-10. Types of legislation. The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator as chief sponsor. The types of legislation allowed include:

(1) bills of any subject, except appropriations;

(2) joint resolutions, which may be used for any purpose specified in Joint Rule 40-60; and

(3) simple resolutions, which may:

(a) adopt or amend Senate rules;

(b) provide for the internal affairs of the Senate;

(c) express confirmation of the Governor's appointments; or

(d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

S40-20. Introduction -- first reading. (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation. Legislation properly introduced or received in the Senate must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a Senator may question adherence to rules. Acknowledgment by the Secretary of the Senate of receipt of legislation transmitted from the House commences the time limit for consideration of the legislation. All legislation received by the Senate may be referred to a committee prior to being read across the rostrum.

(2) Bills and resolutions preintroduced as provided in Joint Rule 40-40 may be assigned to committee and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

(4) The sponsor may ask the Legislative Services Division to change or correct a short title used on the bill status system.

S40-30. Additional sponsors. (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the additional sponsors will be forwarded to the Legislative Services Division with

the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

S40-40. Reading limitations. (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee or withdrawn from a committee by motion, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole unless a printed version of an unamended bill is available.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

CHAPTER 5

Floor Action

S50-10. Attendance – mandatory voting – quorum. (1) Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

(2) A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, sec. 10(2)).

S50-20. Orders of business. After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Governor;
- (5) messages from the House of Representatives;
- (6) first reading and commitment of bills;
- (7) second reading of bills (Committee of the Whole);
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

S50-30. Limitations on debate. A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

S50-40. Procedure upon offering a motion. (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer

or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

S50-50. Precedence of motions. (1) When a question is under debate only the following privileged and subsidiary motions may be made:

- (a) to adjourn (nondebatable S50-60);
- (b) for a call of the Senate (nondebatable S50-60);
- (c) to recess (nondebatable S50-60);
- (d) question of privilege;
- (e) to lay on the table (nondebatable S50-60);
- (f) for the previous question (nondebatable S50-60);
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration as provided in S50-90.

(4) A motion or proposition on a subject different from that under consideration may not be accepted unless a substitute motion is in order.

S50-60. Nondebatable motions. The following motions are not debatable:

- (1) to adjourn;
- (2) for a call of the Senate;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;
- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;
- (9) to amend an undebatable motion;
- (10) to change a vote (S50-200);
- (11) to pass business in Committee of the Whole;
- (12) to take from the table;

(13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and

(14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

S50-70. Amending motions -- restrictions. (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

S50-80. Previous question. (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise. The motion for the previous question is nondebatable as provided in S50-60(7).

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half

hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion regardless of whether debate on the main motion has occurred.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

S50-90. Reconsideration – time restrictions. (1) Subject to subsection (6), any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(2) A motion to reconsider must be disposed of when made unless a proper substitute motion is made and adopted.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 9 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

(6) If the Senate has adjourned for more than 2 days, then a motion to reconsider action taken on the last day the Senate was in session is in order on the day the Senate reconvenes or on the following legislative day.

S50-95. Rerefferral. (1) Legislation that is in the possession of the Senate and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a Senate committee by a majority vote.

(2) (a) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading, has been rereferred to the Finance and Claims Committee pursuant to subsection (1), and is reported from committee without amendments may be placed on third reading.

(b) Prior to being placed on third reading, legislation rereferred and reported from committee under this rule must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading, rereferred to the Senate Finance and Claims Committee, and reported from the committee without amendments.

S50-100. Dividing a question – segregation excluded. A Senator may request to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain. A vote is not required on a request to divide a question, but the chair may rule that a question is not divisible. The ruling of the chair may be appealed as provided in S20-10 and S20-20. For an appeal of a ruling of the presiding officer, the question for the Senate must be stated as, "Shall the ruling of the chair be upheld?". A motion to segregate pursuant to S50-140(4) is not a request to divide a question.

S50-110. Rules for questions or bills requiring other than a majority vote. (1) Except as provided in subsection (2), if a question or bill requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question or bill prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

S50-120. Committee reports to Senate – reconsideration. (1) Reports of standing committees must be read on Order of Business No. 2, and, if there is no objection to form, are considered adopted. Subject to subsection (4), debate may not be had on any report.

(2) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 9 by motion to reconsider as provided in S50-90. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. Subject to S50-90(6), the reconsideration motion must be made within 1 legislative day of the adoption of the committee report and is not in order if the bill has been considered in Committee of the Whole.

(4) (a) Subject to subsection (4)(b), the Rules Committee and conference committees may report at any time, except during a call of the Senate, when a vote is being taken, or during Committee of the Whole.

(b) The Rules Committee may report during Committee of the Whole on matters referred to the Committee by the Committee of the Whole.

S50-130. Conference committee – reports. (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

S50-140. Second reading – Committee of the Whole report – segregation – rejection. (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. The sponsor shall make an opening statement, proposed

amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

S50-150. Committee of the Whole amendments. (1) All Committee of the Whole amendments must be prepared by the staff of the Legislative Services Division, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

S50-160. Motions in Committee of the Whole. (1) All proper motions on second reading are debatable unless specified in S50-60.

(2) The only motions in order during Committee of the Whole are to:

(a) recommend passage or nonpassage;
(b) recommend concurrence or nonconcurrence (House amendments to Senate legislation);

(c) amend;

(d) indefinitely postpone;

(e) pass consideration;

(f) change the order in which legislation is placed on the agenda (nondebatable S50-60(14));

(g) rise (nondebatable S50-60(3));

(h) rise and report progress and ask leave to sit again (nondebatable S50-60(3)); or

(i) rise and report (nondebatable S50-60(3)).

(3) The motions listed in subsection (2) may be made in descending order as listed.

S50-170. Committee of the Whole – generally. (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

S50-180. Voting on second reading – positive disposition of motions. (1) On Order of Business No. 7, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous voice vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

S50-190. Third reading procedure. (1) Unless rereferred to a committee by a majority vote after the adoption of the Committee of the Whole report but before moving to another order of business, all legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 8 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other

appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

S50-200. Senate voting – changing a vote – objection. (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

S50-210. Pairs. (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

S50-220. Call of the Senate. (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote of the members present.

S50-230. House amendments to Senate legislation. (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a

hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

S50-240. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

S50-250. Governor's veto. (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 6

Rules

S60-10. Senate rules – amendment – adoption – suspension. (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

S60-20. Mason's Manual of Legislative Procedure. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate in all cases not covered by these rules.

S60-30. Joint rules superseded. A Senate rule, insofar as it relates to the internal proceedings of the Senate, supersedes a joint rule.

CHAPTER 7

Nominations from the Governor

S70-10. Nominations. (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

S70-20. Receiving nominations – requesting bill drafts. (1) Nominations received from the Governor must be:

- (a) received by the President;
- (b) delivered to the Secretary of the Senate; and
- (c) read under Order of Business No. 4, messages from the Governor.

(2) The Secretary shall distribute a copy of the list of nominations to each Senator.

(3) (a) The President of the Senate shall submit a bill draft request for a resolution for each nominee or each group of nominees read under Order of Business No. 4. These bill draft requests will not count against any bill draft request limit imposed on the President of the Senate.

(b) Prior to introduction of the resolution, the President of the Senate shall designate the appropriate committee chair to introduce the simple resolution.

S70-30. Committee process -- separate consideration. (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been given.

(2) (a) Except as provided in subsection (2)(b), following the hearings for a group of nominees, the committee shall issue standing committee reports to be considered on second reading, stating the committee's recommendations concerning the nominees.

(b) Following the hearings for the group of nominees, if a committee member wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees being considered by the committee, the committee member may prepare an amendment for executive action to strike or add a nominee or group of nominees. If a nominee or a group of nominees is stricken, the committee member that offered the amendment shall make a motion to request a committee resolution for the nominee or nominees to be considered by a separate resolution. A simple majority of the committee is sufficient in order to request a separate committee resolution.

(3) Within the Committee of the Whole, if a Senator wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees recommended by the committee, the Senator may prepare a floor amendment to strike or add a nominee or group of nominees. If a nominee or a group of nominees is stricken, a Senator may make a motion to request that the President of the Senate submit a bill draft request for that the nominee or nominees to be considered by a separate resolution.

(4) When the resolution for an individual or group nomination has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(6) After the report has been read, the resolution must be placed on Order of Business No. 7 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated. Approval upon second reading constitutes confirmation of the Governor's nominee. A motion to reconsider the approval or disapproval of a nomination made on second reading must occur within one legislative day. A motion to reconsider may not be made if the resolution approving a confirmation is no longer in the possession of the Senate.

Appendix A

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

(1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);

(2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);

(3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);

(4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(5) a motion to approve a bill to appropriate the principal of the coal trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths of each house);

(6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than those described in that section (three-fifths of each house);

(7) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature);

(8) an appeal of the ruling of the presiding officer pursuant to S20-10 (one Senator, seconded by two other Senators);

(9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds); and

(11) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths).

Adopted January 12, 2017

SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA DIRECTING IMMEDIATE LEGAL INTERVENTION ON BEHALF OF THE SENATE AS AN INDISPENSABLE PARTY IN ORDER TO PROTECT THE INTEGRITY OF THE SENATE'S CONSTITUTIONAL CONFIRMATION AUTHORITY AND PROCESS UNDER ARTICLE VI, SECTION 8, OF THE MONTANA CONSTITUTION, THE ASSOCIATED IMPLEMENTING STATUTES, AND RULES OF THE MONTANA STATE SENATE.

WHEREAS, Article VI, section 8, of the Montana Constitution authorizes the Governor to appoint, subject to confirmation by the Senate of the State of Montana, all officers provided for in the Constitution or by law whose appointment or election is not otherwise provided for; and

WHEREAS, pursuant to section 13-37-102, MCA, there is a Commissioner of Political Practices who is appointed by the Governor, subject to confirmation by a majority of the Senate; and

WHEREAS, pursuant to sections 13-37-102 through 13-37-104, MCA, the statutory legislative history and the Legislature's intent, the Governor's historical nomination and appointment practice for the office of Commissioner of Political Practices, and the Senate's historical confirmation process of the Commissioner all clearly provide that the Commissioner's office is subject to a cyclical 6-year term to begin in January every 6 years in odd-numbered years; and

WHEREAS, the current Commissioner of Political Practices, Jonathan Motl, was appointed by Governor Steve Bullock and submitted to the Senate by written communication dated May 20, 2013; and

WHEREAS, in the appointment letter to Secretary of State Linda McCulloch, the Governor stated that Mr. Motl's term as Commissioner of Political Practices "will end January 1, 2017" in adherence with the 6-year cycle term of the Commissioner's office that began on January 1, 2011; and

WHEREAS, on April 24, 2015, a majority of the members of Senate, acting pursuant to the Senate's constitutional and statutory confirmation authority, passed Senate Resolution 53 (2015) concurring in, confirming, and consenting to the appointment of Jonathan Motl as Commissioner of Political Practices, made by the Governor and submitted by written communication dated May 20, 2013, to the Senate; and

WHEREAS, Senate Resolution 53 (2015), citing the vacancy provision in section 13-37-104, MCA, stated that Mr. Motl was "appointed to a term ending January 1, 2017"; and

WHEREAS, the Senate confirmed Commissioner Motl in Senate Resolution No. 53 (2015), which clearly and unambiguously provided that he was "appointed to a term ending January 1, 2017"; and

WHEREAS, a lawsuit (Cause No. BDV 2016-1055) was filed in the First Judicial Court on December 20, 2016, on behalf of Christine Kaufmann, Linda McCulloch, Montanans for Experienced Judges, Jesse O'Hara, and Al Smith, Executive Director of MTLA, as the plaintiffs/petitioners against Steve Bullock, Governor of Montana, the defendant/respondent, alleging that Mr. Motl's term as Commissioner Political Practices does not expire on January 1, 2017, but expires on June 10, 2019; and

WHEREAS, the plaintiffs named the Governor as a defendant but failed in their petition to the Court to name the Montana State Senate as an indispensable party that acted in its constitutional and statutory capacity in Mr. Motl's nomination and confirmation process; and

WHEREAS, the plaintiffs and the Governor have entered into a stipulation dated December 23, 2016, in which the parties agree that the expiration date of Commissioner Motl's term of January 1, 2017, "shall have no force and effect and shall not be enforced by the Governor" despite the clear and unambiguous language in the senate resolution confirming his term; and

WHEREAS, the plaintiffs' lawsuit and the relief sought would thwart the Senate's authority to confirm a new Commissioner of Political Practices during the current Legislative Session; and

WHEREAS, the plaintiff's lawsuit and the relief sought clearly contravenes the Senate's constitutional confirmation authority and process under Article VI, section 8, of the Montana Constitution, the associated implementing statutes, and rules of the Montana State Senate.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

(1) That the Legislative Services Division Legal Services Office on behalf of the Senate:

(a) immediately file all necessary motions in order to intervene in the proceeding of Christine Kaufmann, Linda McCulloch, Montanans for Experienced Judges, Jesse O'Hara, and Al Smith, Executive Director of MTLA, v. Steve Bullock, Governor of Montana, Cause No. BDV 2016-1055;

(b) vigorously defend and protect in all court proceedings the legal integrity of Senate's constitutional confirmation authority and process under Article VI, section 8, of the Montana Constitution, the associated implementing statutes, and rules of the Montana State Senate; and

(c) assert in all court proceedings that under the law the term of the current Commissioner of Political Practices ends January 1, 2017; and

(d) assert and defend the provisions of SR 53 (2015), which clearly and unambiguously state that the current Commissioner's term ends on January 1, 2017.

(2) That the Legislative Services Division Legal Services Office may contract for legal services to assist in all legal proceedings in the matters subject to this resolution.

Adopted January 12, 2017

SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As the Director of the Department of Transportation, in accordance with sections 2-15-111 and 2-15-2501, MCA:

Michael T. Tooley, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 11, 2017

SENATE RESOLUTION NO. 4

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

As Director of the Department of Public Health and Human Services, in accordance with sections 2-15-111 and 2-15-2201, MCA:

Ms. Sheila Hogan, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 4, 2017

SENATE RESOLUTION NO. 5

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Mr. Tim Baker, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 3, 2017

SENATE RESOLUTION NO. 6

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Ms. Jennifer Anders, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2017

SENATE RESOLUTION NO. 7

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Lucinda Willis, Polson, Montana, for a term ending July 1, 2020.

Ranetta Jones, Billings, Montana, for a term ending July 1, 2020.

(2) As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Amy Rapp, Great Falls, Montana, for a term ending July 1, 2019.

Bart Langemeier, Red Lodge, Montana, for a term ending July 1, 2019.

Jack Johnson, Billings, Montana, for a term ending July 1, 2018.

Phil Gaglia, Billings, Montana, for a term ending July 1, 2018.

(3) As members of the Board of Private Security, in accordance with section 2-15-1781, MCA:

Charles Pesola, Kalispell, Montana, for a term ending August 1, 2018.

Dirk Brauwens, Billings, Montana, for a term ending August 1, 2019.

Mark Guy, Laurel, Montana, for a term ending August 1, 2018.

Tom Mangan, Helena, Montana, for a term ending August 1, 2018.

Wynn Meehan, Townsend, Montana, for a term ending August 1, 2018.

(4) As members of the State Compensation Insurance Fund Board of Directors, in accordance with section 2-15-1019, MCA:

Jack Owens, Missoula, Montana, for a term ending May 1, 2019.

Jan VanRiper, Helena, Montana, for a term ending May 1, 2019.

Matt Mohr, Big Sky, Montana, for a term ending May 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 7, 2017

SENATE RESOLUTION NO. 8

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF LABOR AND INDUSTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Commissioner of Labor and Industry, in accordance with sections 2-15-111 and 2-15-1701, MCA:

Ms. Pamela Bucy, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 15, 2017

SENATE RESOLUTION NO. 10

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Jim Schillinger, Circle, Montana, for a term ending May 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2017

SENATE RESOLUTION NO. 12

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF REVENUE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of Revenue, in accordance with sections 2-15-111 and 2-15-1302, MCA:

Mr. Mike Kadas, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 3, 2017

SENATE RESOLUTION NO. 13

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO PUBLIC HEALTH MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Dr. Christine White Deeble, Missoula, Montana, for a term ending September 1, 2020.

Dr. Nancy Patterson, Great Falls, Montana, for a term ending September 1, 2019.

Dr. Sandy Shepherd, Missoula, Montana, for a term ending September 1, 2019.

(2) As a member of the Board of Behavioral Health, in accordance with section 2-15-1744, MCA:

Mona Sumner, Billings, Montana, for a term ending January 1, 2019.

(3) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. Greg Pisk, Kalispell, Montana, for a term ending January 1, 2019.

Sheryl Olson, Stevensville, Montana, for a term ending January 1, 2018.

Dr. V. J. Maddio, Helena, Montana, for a term ending January 1, 2018.

(4) As members of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Vicki Rice, Helena, Montana, for a term ending April 1, 2019.

Troy Krieger, Billings, Montana, for a term ending April 1, 2020.

(5) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Cherry Loney, Great Falls, Montana, for a term ending April 1, 2021.

Dr. Kevin Miltko, Missoula, Montana, for a term ending April 1, 2021.

(6) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Alfred McLees, Billings, Montana, for a term ending July 1, 2018.

Dr. Helen Hallenbeck, Missoula, Montana, for a term ending July 1, 2019.

(7) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Dr. James Burkholder, Helena, Montana, for a term ending September 1, 2019.

Dr. James Feist, Bozeman, Montana, for a term ending September 1, 2020.
Dr. James Upchurch, Hardin, Montana, for a term ending September 1, 2019.

Tammy Scott, Missoula, Montana, for a term ending September 1, 2017.

Tanja Brekke, Bozeman, Montana, for a term ending September 1, 2019.

(8) As a member of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Jim Corson, Billings, Montana, for a term ending June 1, 2021.

(9) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Joyce Dombrowski, Missoula, Montana, for a term ending July 1, 2019.

Laureli Scribner, Roundup, Montana, for a term ending July 1, 2019.

Sandy Sacry, Whitehall, Montana, for a term ending July 1, 2020.

Shari Brownback, East Helena, Montana, for a term ending July 1, 2020.

(10) As a member of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Heather MacMonegle, Conrad, Montana, for a term ending December 31, 2019.

(11) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Mike Bertagnolli, Three Forks, Montana, for a term ending July 1, 2020.

Tony King, Helena, Montana, for a term ending July 1, 2021.

(12) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Dawn Christian, Missoula, Montana, for a term ending July 1, 2018.

Jennifer Lorengo, Deer Lodge, Montana, for a term ending July 1, 2019.

Kelsey Wadsworth, Bozeman, Montana, for a term ending July 1, 2018.

Pat Goodover, Great Falls, Montana, for a term ending July 1, 2018.

(13) As members of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

Becky Bird, Billings, Montana, for a term ending September 1, 2020.

Dr. Loretta Bolyard, Butte, Montana, for a term ending September 1, 2021.

(14) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Barbara Anderson, Culbertson, Montana, for a term ending July 1, 2017.

Abe Abramson, Missoula, Montana, for a term ending July 1, 2017.

Daniel Funsch, Missoula, Montana, for a term ending July 1, 2018.

Mike Nielsen, Billings, Montana, for a term ending July 1, 2019.

Robin Johnson, Dillon, Montana, for a term ending July 1, 2018.

(15) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Megan Bullock, Boulder, Montana, for a term ending July 1, 2018.

Stephanie Ler, Sidney, Montana, for a term ending July 1, 2019.

(16) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Leah Jacobsen, Great Falls, Montana, for a term ending December 31, 2017.

Tina Berg, Lewistown, Montana, for a term ending December 31, 2017.

Lucy Hart Paulson, Missoula, Montana, for a term ending December 31, 2019.

Rachel Stansberry, Lewistown, Montana, for a term ending December 31, 2019.

Richard Turner, Big Timber, Montana, for a term ending December 31, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 14, 2017

SENATE RESOLUTION NO. 14

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO MINING AND ENERGY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Tim Schaff, Roundup, Montana, appointed to a term ending January 1, 2019.

Veronica Small-Eastman, Lodge Grass, Montana, appointed to a term ending January 1, 2019.

(2) As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Donna von Nieda, Nye, Montana, appointed to a term ending January 1, 2019.

Jane Weber, Great Falls, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2017

SENATE RESOLUTION NO. 15

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF COUNTY PRINTING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of County Printing, in accordance with section 2-15-1026, MCA:

Commissioner Carol Brooker, Thompson Falls, Montana, for a term ending April 1, 2017.

Jim Strauss, Great Falls, Montana, for a term ending April 1, 2017.

Commissioner Laura Obert, Townsend, Montana, for a term ending April 17, 2017.

Roger Wagner, Nashua, Montana, for a term ending April 1, 2017.

Scott Turner, Billings, Montana, for a term ending April 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 8, 2017

SENATE RESOLUTION NO. 17

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF OUTFITTERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Outfitters, in accordance with section 2-15-1773, MCA:

Rob Arnaud, Bozeman, Montana, for a term ending October 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2017

SENATE RESOLUTION NO. 20

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Natural Resources and Conservation, in accordance with sections 2-15-111 and 2-15-3301, MCA:

Mr. John Tubbs, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 11, 2017

SENATE RESOLUTION NO. 21

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Environmental Quality, in accordance with sections 2-15-111 and 2-15-3501, MCA:

Mr. Thomas Livers, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 11, 2017

SENATE RESOLUTION NO. 23

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

Michael Thompson, Ronan, Montana, for a term ending July 1, 2020.

(2) As members of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Doug Kimball, Bozeman, Montana, for a term ending April 1, 2019.

Randall Hoch, Lewistown, Montana, for a term ending April 1, 2020.

(3) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Anne MacIntyre, East Helena, Montana, for a term ending January 1, 2020.

Dave Severson, Missoula, Montana, for a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2017

SENATE RESOLUTION NO. 24

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Glenna Lee, Glendive, Montana, for a term ending October 1, 2020.

Katie Fontana, Great Falls, Montana, for a term ending October 1, 2018.

Naomi Burbach, Glendive, Montana, for a term ending October 1, 2020.

(2) As members of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Dawn Achten, Billings, Montana, for a term ending July 1, 2021.

Mel Medhus, Columbia Falls, Montana, for a term ending July 1, 2020.

(3) As members of the Board of Massage Therapy, in accordance with section 2-15-1782, MCA:

Alyson Ragsdale, Broadus, Montana, for a term ending May 6, 2017.

Patricia Ryan, Whitefish, Montana, for a term ending May 1, 2019.

Tamara Leach, Livingston, Montana, for a term ending May 1, 2020.

(4) As members of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Debi Friede, Havre, Montana, for a term ending May 1, 2019.

Denver Fraser, Clancy, Montana, for a term ending May 1, 2019.

Scott Lemert, Livingston, Montana, for a term ending May 1, 2019.

Steve Henry, Laurel, Montana, for a term ending May 1, 2019.

Steve Carey, Frenchtown, Montana, for a term ending May 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 7, 2017

SENATE RESOLUTION NO. 25

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Maire O'Neill, Bozeman, Montana, for a term ending April 1, 2019.

Nathan Steiner, Billings, Montana, for a term ending April 1, 2019.

Shelly Engler, Bozeman, Montana, for a term ending April 1, 2019.

(2) As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Roger Wagner, Nashua, Montana, for a term ending July 1, 2019.

Ruhul Amin, Bozeman, Montana, for a term ending July 1, 2019.

Tom Pankratz, Clancy, Montana, for a term ending July 1, 2019.

(3) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Ed Schoenen, Great Falls, Montana, for a term ending May 1, 2018.

George Luther, Miles City, Montana, for a term ending May 1, 2019.

Myles Link, Missoula, Montana, for a term ending May 1, 2019.

Pete Fontana, Great Falls, Montana, for a term ending May 1, 2019.

Tim McGinnis, Polson, Montana, for a term ending May 1, 2018.

(4) As members of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Cindy Lanier, Lakeside, Montana, for a term ending May 1, 2019.

Dan Wagner, Billings, Montana, for a term ending May 1, 2019.

Eric Ossorio, Big Sky, Montana, for a term ending May 1, 2019.

Josh Peck, Butte, Montana, for a term ending May 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 17, 2017

SENATE RESOLUTION NO. 26

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MADE BY THE GOVERNOR AND SUBMITTED BY

WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Administration, in accordance with sections 2-15-111 and 2-15-1001, MCA:

Mr. John Lewis, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and the Governor pursuant to section 5-5-303, MCA.

Adopted February 18, 2017

SENATE RESOLUTION NO. 27

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD AND THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Julie McKenna, Helena, Montana, for a term ending April 1, 2017.

Marty Tuttle, Clancy, Montana, for a term ending April 1, 2019.

Pepper Valdez, Billings, Montana, for a term ending April 1, 2020.

Timm Twardoski, Helena, Montana, for a term ending April 1, 2021.

(2) As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

David Boyd, Poplar, Montana, for a term ending August 1, 2019.

Gary Sorensen, Missoula, Montana, for a term ending August 1, 2019.

Peter Olson, Culbertson, Montana, for a term ending August 1, 2020.

Dick Juvik, Helena, Montana, for a term ending August 1, 2019.

Shawn Backbone, Crow Agency, Montana, for a term ending August 1, 2019.

Bill Willing, Anaconda, Montana, for a term ending August 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 8, 2017

SENATE RESOLUTION NO. 28

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE ADJUTANT GENERAL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Adjutant General, in accordance with sections 2-15-111 and 2-15-1201, MCA:

Major General Matthew Quinn, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 8, 2017

SENATE RESOLUTION NO. 29

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERINARY MEDICINE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Dr. Jean Lindley, Miles City, Montana, for a term ending August 1, 2020.

Kim Baker, Hot Springs, Montana, for a term ending August 1, 2020.

Dr. Rebecca Mattix, Bozeman, Montana, for a term ending August 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 18, 2017

SENATE RESOLUTION NO. 30

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE

APPOINTMENTS TO THE BOARD OF MILK CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Jerry Weissman, Great Falls, Montana, for a term ending January 1, 2019.

W. Scott Mitchell, Billings, Montana, for a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 7, 2017

SENATE RESOLUTION NO. 32

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Jesse Barnhart, Broadus, Montana, appointed to a term ending February 1, 2018.

Tammy Lacey, Great Falls, Montana, appointed to a term ending February 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 29, 2017

SENATE RESOLUTION NO. 33

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

G. B. Carson, Townsend, Montana, appointed to a term ending February 1, 2020.

Sean Chandler, Harlem, Montana, appointed to a term ending February 1, 2020.

Arlene Parisot, Helena, Montana, appointed to a term ending February 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 29, 2017

SENATE RESOLUTION NO. 34

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Bob Brown, Whitefish, Montana, appointed to a term ending July 1, 2021.

Chuck Johnson, Helena, Montana, appointed to a term ending July 1, 2020.

Thomas Nygard, Bozeman, Montana, appointed to a term ending July 1, 2021.

Jude Sheppard, Chinook, Montana, appointed to a term ending July 1, 2020.

Crystal Wong Shors, Helena, Montana, appointed to a term ending July 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 7, 2017

SENATE RESOLUTION NO. 35

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Regents of Higher Education, in accordance with section 2-15-1508, MCA:

Levi Birky, Kalispell, Montana, appointed to a term ending June 30, 2017.

Casey Lozar, Helena, Montana, appointed to a term ending February 1, 2018.

Bob Nystuen, Lakeside, Montana, appointed to a term ending February 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2017

SENATE RESOLUTION NO. 36

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO PUBLIC HEALTH MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 27, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. Amy Pezo, Helena, Montana, for a term ending January 1, 2020.

(2) As a member of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Mr. Jim Corson, Billings, Montana, for a term ending April 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 11, 2017

SENATE RESOLUTION NO. 37

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 3, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Kent Burgess, Billings, Montana, for a term ending January 1, 2021.

Jim Kearns, Townsend, Montana, for a term ending January 1, 2021.

Paul Komlosi, White Sulphur Springs, Montana, for a term ending January 1, 2019.

Larry Putnam, Helena, Montana, for a term ending January 1, 2021.

John Rogers, Helena, Montana, for a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 8, 2017

SENATE RESOLUTION NO. 38

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC ASSISTANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 10, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Ms. Amy Christensen, Helena, Montana, for a term ending January 1, 2021.

Ms. Marianne Roose, Eureka, Montana, for a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 11, 2017

SENATE RESOLUTION NO. 39

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 10, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to 5-5-302, MCA:

As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

Greg Jergeson, Chinook, Montana, appointed to a term ending January 1, 2021.

Dave Schulz, Sheridan, Montana, appointed to a term ending January 1, 2021.

Barb Skelton, Billings, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 43

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF WATER WELL CONTRACTORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Water Well Contractors, in accordance with section 2-15-3307, MCA:

Mr. Kevin Haggerty, Bozeman, Montana, appointed to a term ending July 1, 2018.

Mr. Pat Byrne, Great Falls, Montana, appointed to a term ending July 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 11, 2017

SENATE RESOLUTION NO. 44

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF ASSOCIATE WATER JUDGE MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 17, 2017, TO THE SENATE.

WHEREAS, the Chief Justice of the Supreme Court of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Chief Justice pursuant to section 3-7-221, MCA:

As Associate Water Judge of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Douglas John Ritter, Bozeman, Montana, appointed to a term ending June 30, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 11, 2017

SENATE RESOLUTION NO. 45

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 8, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Fish, Wildlife, and Parks, in accordance with sections 2-15-111 and 2-15-3401, MCA:

Ms. Martha Williams, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 46

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Raymond Gross, Dillon, Montana, for a term ending July 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 7, 2017

SENATE RESOLUTION NO. 47

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 3, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents of Higher Education, in accordance with section 2-15-1508, MCA:

Bill Johnstone, Bozeman, Montana, appointed to a term ending February 1, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2017

SENATE RESOLUTION NO. 49

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF

AGRICULTURE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 6, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Agriculture, in accordance with sections 2-15-111 and 2-15-3001, MCA:

Benjamin Thomas, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2017

SENATE RESOLUTION NO. 50

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 3, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Kimberly Burdick, Fort Benton, Montana, appointed to a term ending January 1, 2021.

Sheriff Leo Dutton, Helena, Montana, appointed to a term ending January 1, 2021.

Sheriff Tony Harbaugh, Miles City, Montana, appointed to a term ending January 1, 2021.

Lt. Tim Neiter, Billings, Montana, appointed to a term ending January 1, 2021.

Lewis Smith, Deer Lodge, Montana, appointed to a term ending January 1, 2019.

John Strandell, Helena, Montana, appointed to a term ending January 1, 2021.

Jim Thomas, Canyon Creek, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 25, 2017

SENATE RESOLUTION NO. 51

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 10, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Bill Hunt, Jr., Shelby, Montana, appointed to a term ending January 1, 2021.

Roger Lincoln, Gildford, Montana, appointed to a term ending January 1, 2021.

Tricia McKenna, Bozeman, Montana, appointed to a term ending January 1, 2021.

Walter LeRoy McNutt, Sidney, Montana, appointed to a term ending January 1, 2021.

Jeff Wadekamper, Helena, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 52

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 10, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Elizabeth Albers, Missoula, Montana, appointed to a term ending February 1, 2022.

Cynthia Andrus, Bozeman, Montana, appointed to a term ending February 1, 2022.

John Paul Gabriel, Jr., Bozeman, Montana, appointed to a term ending February 1, 2022.

Tracy Linder, Molt, Montana, appointed to a term ending February 1, 2022.

Dr. Renee Westlake, Bozeman, Montana, appointed to a term ending February 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 29, 2017

SENATE RESOLUTION NO. 53

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE COAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 10, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Sidney Fitzpatrick, Hardin, Montana, appointed to a term ending January 1, 2021.

Shawn Fredrickson, Butte, Montana, appointed to a term ending January 1, 2021.

Marianne Roose, Eureka, Montana, appointed to a term ending January 1, 2021.

John Williams, Colstrip, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 29, 2017

SENATE RESOLUTION NO. 54

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE EIGHTH JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 14, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As District Judge of the Eighth Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

John Parker, Great Falls, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2017

SENATE RESOLUTION NO. 55

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 17, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Theresa Doty, Butte, Montana, for a term ending January 1, 2021.

Michael Murray, Helena, Montana, for a term ending January 1, 2021.

Christopher Pope, Bozeman, Montana, for a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2017

SENATE RESOLUTION NO. 56

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 17, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Commerce, in accordance with sections 2-15-111 and 2-15-1801, MCA:

Pam Haxby-Cote, Butte, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2017

SENATE RESOLUTION NO. 57

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA URGING CONGRESS TO RETAIN PERMANENT REAUTHORIZATION OF THE INDIAN HEALTH CARE IMPROVEMENT ACT WHEN MAKING CHANGES TO OR REPEALING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.

WHEREAS, studies have shown that American Indians and Alaska Natives have a lower life expectancy than other races and experience higher rates of many diseases, including diabetes and heart disease; and

WHEREAS, the United States entered into treaties and other agreements with Indian tribes that created a trust responsibility to, among other things, provide for the health and well-being of Indian peoples in return for land ceded by the tribes; and

WHEREAS, Congress passed the Snyder Act in 1921 to provide appropriations for health services to tribes throughout the United States; and

WHEREAS, Congress in 1976 enacted the Indian Health Care Improvement Act, declaring “it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy”; and

WHEREAS, Congress periodically revised and reauthorized the Indian Health Care Improvement Act before permanently reauthorizing the act as part of the Patient Protection and Affordable Care Act in 2010; and

WHEREAS, in the face of current uncertainty over congressional action relating to the Patient Protection and Affordable Care Act, retaining that law’s permanent reauthorization of the Indian Health Care Improvement Act is of significant importance to Montana’s Indian tribes, tribal members, and the state of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

(1) That in making any revisions to or repealing the Patient Protection and Affordable Care Act, President Trump and the United States Congress be urged to retain or create the permanent reauthorization of the Indian Health Care Improvement Act.

(2) That the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader and Minority Leader of the United States House of Representatives, the Majority Leader and Minority Leader of the United States Senate, to each member of the Montana Congressional

Delegation, and to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Adopted April 11, 2017

SENATE RESOLUTION NO. 58

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 17, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Mac McDermott, Shelby, Montana, appointed to a term ending January 1, 2021.

Peggy Ames Nerud, Circle, Montana, appointed to a term ending January 1, 2021.

Dennis Trudell, Fairview, Montana, appointed to a term ending January 1, 2021.

Corey Welter, Billings, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 59

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Julie McKenna, Helena, Montana, for a term ending April 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 60

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Anne Keith, Bozeman, Montana, appointed to a term ending February 1, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 61

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Sam Phares, Clyde Park, Montana, appointed to a term ending July 1, 2020.

Hal Stearns, Missoula, Montana, appointed to a term ending July 1, 2017.
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 62

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OPTOMETRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Dr. Marcus Kelley, Helena, Montana, appointed to a term ending April 1, 2021.

Dr. Kristi Schied, Billings, Montana, appointed to a term ending April 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2017

SENATE RESOLUTION NO. 63

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO LIVESTOCK AND MILK CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Nina Baucus, Wolf Creek, Montana, for a term ending January 1, 2023.

Sue Brown, Belgrade, Montana, for a term ending January 1, 2023.

Ed Waldner, Chester, Montana, for a term ending January 1, 2023.

(2) As members of the Livestock Loss Board, in accordance with section 2-15-3110, MCA:

Jim Cross, Kalispell, Montana, for a term ending January 1, 2021.

Doreen Gillespie, Ethridge, Montana, for a term ending January 1, 2021.

Seth Wilson, Missoula, Montana, for a term ending January 1, 2021.

(3) As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Brian Beerman, Fairfield, Montana, for a term ending January 1, 2021.

Jim Parker, Fairfield, Montana, for a term ending January 1, 2021.

Erik Somerfeld, Power, Montana, for a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 64

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Logan Brower, Scobey, Montana, appointed to a term ending January 1, 2019.

Richard Stuker, Chinook, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2017

SENATE RESOLUTION NO. 65

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO BOARD OF CRIME CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Tim Brurud, Havre, Montana, appointed to a term ending January 1, 2021.

Jared Cobell, Great Falls, Montana, appointed to a term ending January 1, 2021.

Adrianne Cotton, Helena, Montana, appointed to a term ending January 1, 2019.

Bill Dial, Whitefish, Montana, appointed to a term ending January 1, 2021.

Leo Dutton, Helena, Montana, appointed to a term ending January 1, 2021.

Tim Fox, Helena, Montana, appointed to a term ending January 1, 2021.
Wyatt Glade, Miles City, Montana, appointed to a term ending January 1, 2021.

Jennie Hansen, Huntley, Montana, appointed to a term ending January 1, 2021.

Laura Obert, Townsend, Montana, appointed to a term ending January 1, 2021.

Olivia Rieger, Glendive, Montana, appointed to a term ending January 1, 2021.

Geri Small, Lame Deer, Montana, appointed to a term ending January 1, 2021.

Derek VanLuchene, Helena, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2017

SENATE RESOLUTION NO. 66

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HOUSING, THE BOARD OF PERSONNEL APPEALS, AND THE UNEMPLOYMENT INSURANCE APPEALS BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Johnnie McClusky, Billings, Montana, for a term ending January 1, 2021.

Pat Melby, Helena, Montana, for a term ending January 1, 2021.

Eric Schindler, Helena, Montana, for a term ending January 1, 2021.

Amber Sundsted, Billings, Montana, for a term ending January 1, 2021.

(2) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Rina Moore, Great Falls, Montana, for a term ending January 1, 2021.

Quint Nyman, Helena, Montana, for a term ending January 1, 2021.

Jim Soumas, Billings, Montana, for a term ending January 1, 2021.

(3) As members of the Unemployment Insurance Appeals Board, in accordance with section 2-15-1704, MCA:

Brian Boland, Great Falls, Montana, for a term ending January 1, 2021.

Sara Novak, Anaconda, Montana, for a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above

appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 13, 2017

SENATE RESOLUTION NO. 67

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Corrections, in accordance with sections 2-15-111 and 2-15-2301, MCA:

Mr. Reginald Michael, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2017

SENATE RESOLUTION NO. 68

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF POLITICAL PRACTICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 19, 2017, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Commissioner of Political Practices, in accordance with sections 2-15-411 and 13-37-102, MCA:

Jeff Mangan, Great Falls, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 65th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 20, 2017

2016 BALLOT ISSUES

**Approved by Voters in the
November 2016 General Election**

CONSTITUTIONAL INITIATIVE NO. 116

A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI-116 would add a new section to the Montana Constitution establishing specific rights for crime victims. The rights enumerated include the right to participate in criminal and juvenile justice proceedings, to be notified of major developments in the criminal case, to be notified of changes to the offender's custodial status, to be present at court proceedings and provide input to the prosecutor before a plea agreement is finalized, and to be heard at plea or sentencing proceedings, or any process that may result in the offender's release. CI-116 guarantees crime victims' rights to restitution, privacy, to confer with the prosecuting attorney, and to be informed of their rights. CI-116 defines specific terms and requires no further action by the Legislature for implementation. CI-116, if passed by the electorate, will become effective immediately.

Fiscal impacts are expected for the Office of the Public Defender, Judicial Branch, Department of Corrections and local governments from passage of CI-116, but those costs could not be accurately determined at this time.

THE COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. 116

WHEREAS, the People of the State of Montana find that a crime victim in Montana is entitled to enhanced, specific, and meaningful rights to participate in criminal and youth court proceedings and enact the following new section of Article II of The Constitution of the State of Montana. The section is named for a noted victim of crime, Marsy, in whose name many states have enacted comparable reforms.

Be it enacted by the People of the State of Montana:

NEW SECTION. Section 1. Article II of The Constitution of the State of Montana is amended by adding a new section 36 that reads:

Section 36. Rights of crime victims. (1) To preserve and protect a crime victim's right to justice, to ensure a crime victim has a meaningful role in criminal and juvenile justice systems, and to ensure that a crime victim's rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to a criminal defendant and a delinquent youth, a crime victim has the following rights, beginning at the time of victimization:

(a) to due process and to be treated with fairness and respect for the victim's dignity;

(b) to be free from intimidation, harassment, and abuse;

(c) to be reasonably protected from the accused and any person acting on the accused's behalf;

(d) to have the victim's safety and welfare considered when setting bail and making release decisions;

(e) to prevent the disclosure of information that could be used to locate or harass the victim or that contains confidential or privileged information about the victim;

(f) to privacy, including the right to refuse an interview, deposition, or other discovery request and to set reasonable conditions on the conduct of any interaction to which the victim consents;

(g) to receive reasonable, accurate, and timely notice of and to be present at all proceedings involving the criminal conduct, plea, sentencing, adjudication, disposition, release, or escape of the defendant or youth accused of delinquency and any proceeding implicating the rights of the victim;

- (h) to be promptly notified of any release or escape of the accused;
 - (i) to be heard in any proceeding involving the release, plea, sentencing, disposition, adjudication, or parole of the defendant or youth accused of delinquency and any proceeding implicating the rights of the victim;
 - (j) to confer with the prosecuting attorney;
 - (k) to provide information regarding the impact the offender's conduct had on the victim for inclusion in the presentence or predisposition investigation report and to have the information considered in any sentencing or disposition recommendations submitted to the court;
 - (l) to receive a copy of any presentence report and any other report or record relevant to the exercise of a right of the victim, except for those portions made confidential by law;
 - (m) to the prompt return of the victim's property when no longer needed as evidence in the case;
 - (n) to full and timely restitution. All money and property collected from a person who has been ordered to make restitution must be applied first to the restitution owed to the victim before paying any amounts owed to the government.
 - (o) to proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related postjudgment proceedings;
 - (p) to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the offender, including any scheduled release date, actual release date, or escape;
 - (q) to be informed of clemency and expungement procedures; to provide information to the Governor, the court, any clemency board, or any other authority and to have that information considered before a decision is made; and to be notified of any decision before the release of the offender; and
 - (r) to be informed of the above rights and to be informed that the victim may seek the advice and assistance of an attorney with respect to the above rights. This information must be made available to the general public and provided to all crime victims on what is referred to as a Marsy's card.
- (2) A victim, the victim's attorney, the victim's legal representative, or the prosecuting attorney at the request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court or any other authority with jurisdiction over the case as a matter of right. The court or other authority shall act promptly on the request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right must be clearly stated on the record.
- (3) This section may not be construed to deny or disparage other rights possessed by victims. This section applies to criminal and youth court proceedings, is self-executing, and requires no further action by the Legislature.
- (4) As used in this section, the following definitions apply:
- (a) "Crime" means an act defined as a felony, misdemeanor, or delinquency under state law.
 - (b) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime.
 - (i) The term includes:
 - (A) a spouse, parent, grandparent, child, sibling, grandchild, or guardian of the victim;
 - (B) a person with a relationship to the victim that is substantially similar to a relationship described in subsection (4)(b)(i)(A); and

(C) a representative of a victim who is a minor or who is deceased, incompetent or incapacitated.

(ii) The term does not include the accused or a person who the court believes would not act in the best interests of a minor or of a victim who is deceased, incompetent or incapacitated.

Constitutional Initiative No. 116 was approved by the following vote at the General Election held November 8, 2016:

For: 325,934

Against: 167,261

INITIATIVE NO. 182

A LAW PROPOSED BY INITIATIVE PETITION

I-182 renames the Montana Marijuana Act to the Montana Medical Marijuana Act and amends the Act. I-182 allows a single treating physician to certify medical marijuana for a patient diagnosed with chronic pain and includes post-traumatic stress disorder (PTSD) as a “debilitating medical condition” for which a physician may certify medical marijuana. Licensing requirements, fees and prohibitions are detailed for medical marijuana dispensaries and testing laboratories. I-182 repeals the limit of three patients for each licensed provider, and allows providers to hire employees to cultivate, dispense, and transport medical marijuana. I-182 repeals the requirement that physicians who provide certifications for 25 or more patients annually be referred to the board of medical examiners. I-182 removes the authority of law enforcement to conduct unannounced inspections of medical marijuana facilities, and requires annual inspections by the State.

THE COMPLETE TEXT OF INITIATIVE NO. 182

WHEREAS, Montana voters approved I-148, the “Medical Marijuana Act,” in 2004 with 62 percent of the vote, creating safe access to medical marijuana for patients with debilitating illnesses; and

WHEREAS, the Legislature, with SB 423, repealed the “Medical Marijuana Act” in 2011 and replaced it with the “Montana Marijuana Act”, overriding the will of the voters and creating obstacles for patients’ safe access to medical marijuana; and

WHEREAS, patients with debilitating illnesses rely on providers for safe and reasonable access to medical marijuana; and

WHEREAS, medical marijuana offers relief for veterans and other Montanans suffering from post-traumatic stress disorder (PTSD); and

WHEREAS, providers should be held accountable through licensing and annual inspections; and

WHEREAS, Montana voters continue to support safe access to medical marijuana for patients with debilitating illnesses.

Section 1. Section 45-9-203, MCA, is amended to read:

“45-9-203. Surrender of license. (1) If a court suspends or revokes a driver’s license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card or license issued pursuant to 50-46-307 or 50-46-308 is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under 50-46-330.”

Section 2. Section 46-18-202, MCA, is amended to read:

“46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender’s holding public office;

(b) prohibition of the offender’s owning or carrying a dangerous weapon;

(c) restrictions on the offender’s freedom of association;

(d) restrictions on the offender’s freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card or license issued under 50-46-303;

(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card or license issued under 50-46-303, the court shall return the card or license to the department of public health and human services and provide the department with information on the offender’s sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card.”

Section 3. Section 50-46-301, MCA, is amended to read:

“50-46-301. Short title – purpose. (1) This part may be cited as the “Montana Medical Marijuana Act”.

(2) The purpose of this part is to:

(a) improve the regulatory system to make the Montana marijuana program safe, functional, and transparent for patients, providers, regulators, and Montana communities;

(a)(b) provide legal protections to ~~persons~~ individuals with debilitating medical conditions, including posttraumatic stress disorder, who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b)(c) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this part ~~by persons who obtain registry identification cards;~~

~~(c)(d)~~ allow ~~individuals~~ persons to assist a ~~limited number of~~ registered cardholders with the cultivation ~~and manufacture of~~ marijuana ~~or~~ and manufacture of marijuana-infused products;

(e) require licensing for the cultivation of marijuana and manufacture of marijuana-infused products;

(f) provide for dispensaries, employees, and for the transport of marijuana and marijuana-infused products;

~~(d)(g)~~ establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; ~~and~~

(h) provide for the testing of marijuana by licensed testing laboratories; and

~~(e)(i)~~ give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.”

Section 4. Section 50-46-302, MCA, is amended to read:

“50-46-302. Definitions. As used in this part, the following definitions apply:

(1) “Correctional facility or program” means a facility or program that is described in 53-1-202 and to which ~~a person~~ an individual may be ordered by any court of competent jurisdiction.

(2) “Debilitating medical condition” means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient’s health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient’s treating physician ~~and by:~~

~~(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or~~

~~(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;~~

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn’s disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; ~~or~~

~~(k) post-traumatic stress disorder; or~~

~~(k)(l)~~ any other medical condition or treatment for a medical condition approved by the legislature.

(3) “Department” means the department of public health and human services provided for in 2-15-2201.

(4) “Dispensary” means a registered location from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

(5) (a) “Employee” means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(4)(6) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5)(7) "Marijuana" has the meaning provided in 50-32-101.

(6)(8) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7)(9) (a) "Marijuana-infused products provider" means a ~~Montana resident who meets the requirements of this part and who has applied for and received a registry identification card~~ person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(8)(10) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9)(11) "Paraphernalia" has the meaning provided in 45-10-101.

(12) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(10)(13) (a) "Provider" means a ~~Montana resident 18 years of age or older who is authorized~~ person licensed by the department to assist a registered cardholder as allowed under this part.

(b) The term does not include ~~the~~ a cardholder's treating physician or referral physician.

(11)(14) "Referral physician" means a ~~person~~ an individual who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(12)(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13)(16) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated ~~the person will cultivate or manufacture that~~ marijuana will be cultivated or marijuana-infused products will be manufactured for a registered cardholder.

(14)(17) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies a ~~person~~ an individual as a registered cardholder, ~~provider, or marijuana-infused products provider.~~

(15)(18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this part if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(16)(19) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(17)(20) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(18)(21) “Standard of care” means, at a minimum, the following activities when undertaken by a patient’s treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

- (a) obtaining the patient’s medical history;
- (b) performing a relevant and necessary physical examination;
- (c) reviewing prior treatment and treatment response for the debilitating medical condition;
- (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;
- (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (f) monitoring the response to treatment and possible adverse effects; and
- (g) creating and maintaining patient records that remain with the physician.

(22) “Testing laboratory” means a qualified person, licensed by the department, who:

(a) provides testing of small samples of marijuana and marijuana-infused products; and

(b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds or pesticides in a sample.

(19)(23) “Treating physician” means a person an individual who:

- (a) is licensed under Title 37, chapter 3;
- (b) has an established office in Montana; and
- (c) has a bona fide professional relationship with the person individual applying to be a registered cardholder.

(20)(24) (a) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person an individual with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(21)(25) “Written certification” means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care.”

Section 5. Section 50-46-303, MCA, is amended to read:

“50-46-303. Department responsibilities – issuance of cards and licenses – confidentiality – inspections – reports. (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of this part; and

(ii) are named as providers or marijuana-infused products providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons Individuals who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(2) The department shall establish and maintain a program for the licensure of testing laboratories and persons who are named as providers or marijuana-infused products providers by registered cardholders.

(2)(3) The department shall conduct criminal history background checks as required by 50-46-307 and 50-46-308 before issuing a registry identification card for license to a person named as a provider or marijuana-infused products provider.

~~(3)~~(4) Registry identification cards issued pursuant to this part must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number; and

~~(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and~~

~~(f)~~(e) contain other information that the department may specify by rule.

~~(4)~~(5) (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card or license within 5 days of approving an application or renewal.

~~(5)~~(6) Rejection of an application or renewal is considered a final department action, subject to judicial review.

~~(6)~~(7) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) ~~A provider's or marijuana-infused products provider's registry identification card expires at the time the department issues a card to a new provider or new marijuana-infused products provider named by a registered cardholder~~ Licenses issued to providers, marijuana-infused products providers, and testing laboratories must be renewed annually.

~~(7)~~(8) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~(8)~~(9) The department shall maintain a confidential list of persons individuals to whom the department has issued registry identification cards. Except as provided in subsection (9) (10), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

~~(9)~~(10) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

~~(10)~~ (a) ~~The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall~~

review the physician's practices in order to determine whether the practices meet the standard of care:

~~(b) The physician whose practices are under review shall pay the costs of the board's review activities:~~

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved licensed, the number of testing laboratories licensed, the number of registry identification cards and licenses revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

~~(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications."~~

Section 6. Section 50-46-307, MCA, is amended to read:

"50-46-307. Persons Individuals with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to ~~a person~~ an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the ~~person's~~ individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the ~~person~~ individual will be cultivating and ~~manufacturing~~ marijuana and manufacturing marijuana-infused products for the ~~person's~~ individual's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;

(f) a statement, on a form prescribed by the department, that the ~~person~~ individual will not divert to any other ~~person~~ individual the marijuana or marijuana-infused products that the ~~person~~ individual cultivates, manufactures, or obtains for the ~~person's~~ individual's debilitating medical condition;

(g) the name of the ~~person's~~ individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(h) the street address where the ~~person~~ individual is cultivating marijuana or manufacturing marijuana marijuana-infused products if the ~~person~~ individual is cultivating marijuana or manufacturing marijuana marijuana-infused products for the ~~person's~~ individual's own use;

(i) the name, date of birth, and street address of ~~the individual~~ the person the individual has selected as a provider or marijuana-infused products provider, if any; and

(j) the written certification and accompanying statements from the ~~person's~~ individual's treating physician or referral physician as required pursuant to 50-46-310.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the ~~person~~ individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-infused products provider;

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a ~~registry identification card~~ license as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

(d) pledges, on a form prescribed by the department, not to divert to any ~~person~~ individual any marijuana cultivated ~~or manufactured~~ for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.

(4) ~~A person~~ An individual may not be a registered cardholder if the ~~person~~ individual is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate marijuana or manufacture marijuana marijuana-infused products for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate ~~or manufacture~~ marijuana and manufacture marijuana-infused products as allowed under 50-46-319 only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation ~~and manufacture~~ of marijuana and manufacture marijuana-infused products for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

Section 7. Section 50-46-308 , MCA, is amended to read:

"50-46-308. Provider types -- requirements -- limitations -- activities.

(1) (a) ~~The Subject to subsections (1)(b) and (2), the department shall issue a registry identification card license to or renew a card license for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:~~

~~(a)(i) the person's name, date of birth, and street address on a form prescribed by the department;~~

~~(b)(ii) proof that the person is a Montana resident;~~

~~(c)(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;~~

~~(d)(iv) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;~~

~~(e)(v) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for a registered cardholder;~~

~~(f)(vi) a statement acknowledging that the person will cultivate and manufacture marijuana and manufacture marijuana-infused products for the registered cardholder at only one location as provided in subsection (7) (5). The location must be identified by street address.~~

~~(g)(vii) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration license.~~

~~(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.~~

~~(2) The department may not register license a person under this section if the person or an individual with a financial interest in the person:~~

~~(a) has a felony conviction or a conviction for a drug offense;~~

~~(b) is in the custody of or under the supervision of the department of corrections or a youth court;~~

~~(c) has been convicted of a violation under 50-46-331;~~

~~(d) has failed to:~~

~~(i) pay any taxes, interest, penalties, or judgments due to a government agency;~~

~~(ii) stay out of default on a government-issued student loan;~~

~~(iii) pay child support; or~~

~~(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or~~

~~(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's individual's application for a card issued under 50-46-307; or~~

~~(f) has resided in Montana for less than 1 year.~~

~~(g) is under 18 years of age.~~

~~(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.~~

~~(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.~~

~~(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.~~

~~(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.~~

~~(5)(3) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~

~~(6)(4) A provider or marijuana-infused products provider may not:~~

~~(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;~~

~~(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or~~

~~(c) use marijuana unless the person is also a registered cardholder.~~

~~(7)(5) (a) A person registered licensed under this section may cultivate marijuana and manufacture marijuana marijuana-infused products for use by a registered cardholder only at one of the following locations:~~

~~(i) a property that is owned by the provider or marijuana-infused products provider;~~

~~(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or~~

~~(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.~~

~~(b) No portion of the property used for cultivation of marijuana and manufacture of marijuana marijuana-infused products may be shared with or rented or leased to another provider or marijuana-infused products provider or another a registered cardholder.~~

~~(6) A licensed provider or marijuana-infused products provider may:~~

~~(a) operate dispensaries;~~

~~(b) employ employees to cultivate marijuana, manufacture marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and~~

~~(c) provide a small amount of marijuana or marijuana-infused product cultivated or manufactured on the registered premises to a licensed testing laboratory."~~

Section 8. Section 50-46-309 , MCA, is amended to read:

"50-46-309. Marijuana-infused products provider – requirements – allowable activities. (1) ~~An individual registered~~ A person licensed as a marijuana-infused products provider shall:

~~(a) prepare marijuana-infused products at a registered premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and~~

~~(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.~~

~~(2) A marijuana-infused products provider:~~

~~(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and~~

~~(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered licensed provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered cardholder's licensed provider.~~

~~(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.~~

~~(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."~~

Section 9. Section 50-46-310, MCA, is amended to read:

“50-46-310. Written certification – accompanying statements. (1)

The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the person's patient's treating physician and that the person patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person patient; or

(ii) the person's patient's referral physician;

(b) confirm that the person patient suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's patient's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person patient and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person patient;

(j) list restrictions on the person's patient's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's patient's treating physician or referral physician; and

(ii) monitor the person's patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

Section 10. Section 50-46-317, MCA, is amended to read:

"50-46-317. Registry card or license to be carried and exhibited on demand – photo identification required. A registered cardholder, provider, or marijuana-infused products provider shall keep the person's individual's registry identification card or license in the individual's or person's immediate possession at all times. The ~~person shall display the~~ registry identification card or license and a valid photo identification ~~shall be displayed~~ upon demand of a law enforcement officer, justice of the peace, or city or municipal judge."

Section 11. Section 50-46-318, MCA, is amended to read:

"50-46-318. Health care facility procedures for patients with marijuana for use. (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in 50-46-320, a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person individual with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person individual with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises."

Section 12. Section 50-46-319, MCA, is amended to read:

50-46-319. Legal protections – allowable amounts. (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card or license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not

limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the ~~individual person~~ cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana ~~and marijuana-infused products~~ as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a license or registry identification card does not alone constitute probable cause to search the person or individual or the property of the individual or person possessing or applying for the registry identification card or otherwise subject the person or individual or property of the person or individual possessing or applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

Section 13. Section 50-46-320, MCA, is amended to read:

"50-46-320. Limitations of act. (1) This part does not permit:

(a) any person individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

- (ii) in a school or a postsecondary school as defined in 20-5-402;
- (iii) on or in any property owned by a school district or a postsecondary school;
- (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
- (v) in a school bus or other form of public transportation;
- (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
- (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- (viii) at a public park, public beach, public recreation center, or youth center;
- (ix) in or on the property of any church, synagogue, or other place of worship;
- (x) in plain view of or in a place open to the general public; or
- (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana or manufacture ~~marijuana~~ marijuana-infused products for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in this part may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse ~~a person~~ an individual for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in this part may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that ~~a person~~ an individual with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the ~~person~~ individual to provide a sample of the ~~person's individual's~~ blood for testing pursuant to the provisions of 61-8-405. ~~A person~~ An individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the ~~person's individual's~~ registry identification card or license if the individual is convicted

of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this section must be for the period of suspension or revocation set forth:

- (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or
- (ii) in 61-8-410 for a violation of 61-8-410.

(c) If ~~a person's~~ an individual's registry identification card or license is subject to renewal during the revocation period, the ~~person~~ individual may not renew the card until the full revocation period has elapsed. The card or license may be renewed only if the ~~person~~ individual submits all materials required for renewal."

Section 14. Section 50-46-327, MCA, is amended to read:

"50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers – sanctions. (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person patient who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where marijuana to be used for a debilitating medical condition is cultivated or ~~manufactured~~ or where marijuana-infused products are ~~made~~ produced.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person individual the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter part, or has not met the standard of care required under this chapter part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition."

Section 15. Section 50-46-329, MCA, is amended to read:

"50-46-329. Inspection procedures. (1) The department ~~and state or local law enforcement agencies~~ may conduct unannounced inspections of registered premises, dispensaries, and testing laboratories.

(2) The department shall inspect annually each dispensary, registered premises, and testing laboratory.

(2)(3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

~~(3)~~(4) (a) A registered premises or dispensary, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises or dispensary consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

~~(4)~~(5) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

(6) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards."

Section 16. Section 50-46-330, MCA, is amended to read:

"50-46-330. Unlawful conduct by cardholders – penalties. (1) The department shall revoke and may not reissue the registry identification card of a person an individual who:

(a) is convicted of a drug offense;

(b) allows another person individual to be in possession of the person's individual's:

(i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person individual is registered and cultivating or manufacturing marijuana or manufacturing marijuana-infused products.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

Section 17. Section 50-46-331, MCA, is amended to read:

"50-46-331. Fraudulent representation – penalties. (1) In addition to any other penalties provided by law, a person an individual who fraudulently represents to a law enforcement official that the person individual is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) A person An individual convicted under this section may not be registered licensed as a provider or marijuana-infused products provider under 50-46-308."

Section 18. Section 50-46-339, MCA, is amended to read:

“50-46-339. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency’s ability to investigate unlawful activity in relation to a person or individual with a license or registry identification card.”

Section 19. Section 50-46-341, MCA, is amended to read:

“50-46-341. Advertising prohibited. Persons with licenses and individuals with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.”

Section 20. Section 50-46-344, MCA, is amended to read:

“50-46-344. Rulemaking authority – fees. (1) The department shall adopt rules necessary for the implementation and administration of this part. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for persons individuals with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under 50-46-307 and 50-46-308;

~~(d)~~ other rules necessary to implement the purposes of this part.

(2) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana and marijuana-infused products is required to have only one license.

(3) License fees for testing labs may not exceed \$1,200.

(4) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in [section 24].

~~(2)~~ (5) The department’s rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part.”

Section 21. Section 61-11-101, MCA, is amended to read:

“61-11-101. Report of convictions and suspension or revocation of driver’s licenses – surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver’s license or commercial driver’s license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver’s licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the license and a record of the conviction to the department. If the person does not possess a driver’s license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(5) (a) If a person who holds a valid registry identification card or license issued pursuant to 50-46-307 or 50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411, the court in which the conviction occurs shall require the person to surrender the registry identification card or license.

(b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."

NEW SECTION. Section 22. Testing laboratories. (1) The department shall license testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for toxins and mold.

(2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.

(3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

NEW SECTION. Section 23. License as privilege -- criteria. (1) A provider license is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department may deny a license if the applicant's proposed registered premises:

(i) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department;

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(iii) is not approved by local building, health, or fire officials; or

(iv) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.

(b) For the purposes of this subsection (4), "school" and "postsecondary school" have the meanings provided in 20-5-402.

NEW SECTION. Section 24. Medical marijuana state special revenue account. (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) Money deposited into the account pursuant to [section 20 (4)] must be used by the department for the purpose of administering the Montana Medical Marijuana Act.

NEW SECTION. Section 25. Transition. A person registered as a provider or marijuana-infused products provider may continue to operate as if the person was licensed under [this act] until the appropriate licensing provisions of [this act] are implemented.

NEW SECTION. Section 26. Codification instruction. [Sections 22 through 24] are intended to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [sections 22 through 24].

NEW SECTION. Section 27. Effective dates. (1) Except as provided in subsection (2), [this act] is effective June 30, 2017.

(2) [Sections 3, 4, 5, 9 and 20] are effective on passage and approval.

Constitutional Initiative No. 116 was approved by the following vote at the General Election held November 8, 2016:

For: 291,334

Against: 212,089

TABLES

Code Sections Affected
Session Laws Affected
Senate Bill to Chapter Number
House Bill to Chapter Number
Chapter Number to Bill Number
Effective Dates by Chapter Number
Effective Dates by Date
Session Law to Code
2016 Ballot Issues to Code
Code Sections to 2016 Ballot Issues

CODE SECTIONS AFFECTED

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. It does reflect all other substantive changes. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii), MCA.

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter No.</u>	<u>Bill No.</u>
1-1-231	enacted	Ch. 291	SB 158
1-1-522	repealed 1/1/2018	Ch. 106	HB 271
	amended	Ch. 106	HB 271
1-1-527	enacted	Ch. 57	HB 159
1-5-603	amended	Ch. 275	SB 21
1-5-610	amended	Ch. 275	SB 21
1-5-622	amended	Ch. 275	SB 21
2-1-306	amended	Ch. 406	SB 310
2-1-315	enacted	Ch. 229	SB 319
2-2-106	amended	Ch. 166	SB 149
2-2-145	enacted	Ch. 215	HB 208
2-3-211	amended	Ch. 138	HB 370
2-4-302	amended	Ch. 433	SB 312
2-4-305	amended	Ch. 433	SB 312
2-4-306	amended	Ch. 433	SB 312
2-4-307	amended	Ch. 433	SB 312
2-4-311	amended	Ch. 80	HB 81
2-4-312	amended	Ch. 80	HB 81
2-4-313	amended	Ch. 80	HB 81
2-4-702	amended	Ch. 126	SB 28
2-7-503	amended	Ch. 278	SB 27
	amended	Ch. 439	SB 372
2-7-514	amended	Ch. 439	SB 372
2-7-517	amended	Ch. 173	HB 422
2-9-303	amended	Ch. 306	SB 268
2-9-304	amended	Ch. 306	SB 268
2-15-121	amended	Ch. 322	HB 141
2-15-504	enacted	Ch. 173	HB 422
2-15-1028	amended and repealed	Ch. 358	HB 77
2-15-1029	enacted	Ch. 358	HB 77
2-15-1736	amended	Ch. 3	SB 70
2-15-1741	amended	Ch. 425	SB 193
2-15-1757	amended	Ch. 98	SB 318
2-15-1758	amended	Ch. 19	HB 197
2-15-1816	amended	Ch. 405	SB 309
2-15-2006	amended and renumbered 2-15-2306	Ch. 384	HB 650
2-15-2019	enacted	Ch. 235	HB 303
2-15-2302	repealed	Ch. 392	SB 64
2-15-2305	enacted	Ch. 392	SB 64
2-15-2306	formerly 2-15-2006	Ch. 384	HB 650
2-15-2307	enacted	Ch. 416	SB 95
2-15-3007	enacted	Ch. 312	SB 285
2-15-3110	amended	Ch. 76	HB 286
2-15-3111	amended	Ch. 31	SB 41
	amended	Ch. 76	HB 286
2-15-3112	amended	Ch. 76	HB 286
2-15-3113	amended	Ch. 76	HB 286

2-15-3114	amended	Ch. 284	SB 73
2-15-3309	enacted	Ch. 348	HB 622
2-15-3310	enacted	Ch. 348	HB 622
2-16-501	amended	Ch. 418	SB 127
2-16-502	amended	Ch. 418	SB 127
2-18-101	amended	Ch. 175	SB 152
	amended	Ch. 430	SB 294
2-18-102	amended	Ch. 430	SB 294
2-18-103	amended	Ch. 358	HB 77
2-18-203	amended	Ch. 430	SB 294
2-18-301	amended	Ch. 430	SB 294
2-18-303	amended	Ch. 430	SB 294
2-18-601	amended	Ch. 175	SB 152
	amended	Ch. 370	HB 372
2-18-701	amended	Ch. 175	SB 152
2-18-703	amended	Ch. 175	SB 152
2-18-704	amended	Ch. 245	HB 142
2-18-711	amended	Ch. 370	HB 372
2-18-715	enacted	Ch. 231	SB 44
2-18-716	enacted	Ch. 231	SB 44
2-18-717	enacted	Ch. 231	SB 44
2-18-718	enacted	Ch. 231	SB 44
2-18-719	enacted	Ch. 231	SB 44
2-18-720	enacted	Ch. 231	SB 44
2-18-812	amended	Ch. 175	SB 152
2-18-1011	amended	Ch. 430	SB 294
2-18-1107	amended	Ch. 430	SB 294
2-18-1203	amended	Ch. 37	HB 125
2-18-1204	amended	Ch. 430	SB 294
3-1-318	amended	Ch. 384	HB 650
3-1-702	amended	Ch. 141	HB 64
	amended	Ch. 163	SB 20
	amended	Ch. 390	SB 59
3-1-707	enacted	Ch. 384	HB 650
3-1-708	enacted	Ch. 390	SB 59
3-1-710	enacted	Ch. 241	HB 70
3-1-711	enacted	Ch. 241	HB 70
3-1-712	enacted	Ch. 241	HB 70
3-5-102	amended	Ch. 357	HB 44
3-5-511	amended	Ch. 358	HB 77
3-5-604	amended	Ch. 358	HB 77
3-5-901	amended	Ch. 358	HB 77
3-7-212	amended	Ch. 338	HB 110
3-7-223	amended	Ch. 126	SB 28
3-7-224	amended	Ch. 126	SB 28
3-7-225	amended	Ch. 126	SB 28
3-15-402	amended	Ch. 24	HB 87
3-15-403	amended	Ch. 24	HB 87
5-2-303	amended	Ch. 300	SB 240
5-2-402	amended	Ch. 418	SB 127
5-4-105	enacted	Ch. 309	SB 279
5-5-202	amended	Ch. 167	SB 151
5-5-211	amended	Ch. 167	SB 151
5-5-215	amended	Ch. 123	SB 8
5-5-223	amended	Ch. 4	HB 16
5-5-224	amended	Ch. 167	SB 151

5-5-227	amended	Ch. 4	HB 16
5-5-228	amended	Ch. 358	HB 77
5-5-232	enacted	Ch. 167	SB 151
5-11-1101	amended	Ch. 183	SB 40
5-11-1102	amended	Ch. 183	SB 40
5-11-1111	amended	Ch. 183	SB 40
5-12-208	enacted	Ch. 369	HB 283
7-1-111	amended	Ch. 274	HB 644
	amended	Ch. 420	SB 155
7-1-201	amended	Ch. 307	SB 274
	amended	Ch. 372	HB 405
7-1-4121	amended	Ch. 29	HB 221
7-1-4144	repealed	Ch. 29	HB 221
7-1-4149	amended	Ch. 29	HB 221
7-3-103	amended	Ch. 242	HB 83
7-3-149	amended	Ch. 242	HB 83
7-4-2206	amended	Ch. 372	HB 405
7-4-2718	enacted	Ch. 173	HB 422
7-4-4101	amended	Ch. 174	HB 447
7-4-4102	amended	Ch. 174	HB 447
7-4-4103	amended	Ch. 174	HB 447
7-5-132	amended	Ch. 242	HB 83
7-5-2122	amended	Ch. 97	SB 2
7-5-2309	amended	Ch. 372	HB 405
7-5-4410	enacted	Ch. 174	HB 447
7-6-1504	amended	Ch. 242	HB 83
7-6-2527	amended	Ch. 275	SB 21
7-8-105	enacted	Ch. 295	SB 200
7-8-2201	amended	Ch. 255	HB 373
7-8-2202	repealed	Ch. 255	HB 373
7-8-2210	repealed	Ch. 255	HB 373
7-8-2211	amended	Ch. 255	HB 373
7-8-2212	amended	Ch. 255	HB 373
7-8-2213	amended	Ch. 255	HB 373
7-8-2216	amended	Ch. 255	HB 373
7-8-2217	amended	Ch. 255	HB 373
7-8-2219	repealed	Ch. 255	HB 373
7-8-2231	amended	Ch. 255	HB 373
7-8-2233	repealed	Ch. 255	HB 373
7-8-2301	amended	Ch. 255	HB 373
7-8-2308	repealed	Ch. 255	HB 373
7-8-2501	amended	Ch. 255	HB 373
7-8-2502	repealed	Ch. 255	HB 373
7-8-2504	repealed	Ch. 255	HB 373
7-8-2505	repealed	Ch. 255	HB 373
7-8-2506	repealed	Ch. 255	HB 373
7-8-2507	repealed	Ch. 255	HB 373
7-8-2508	repealed	Ch. 255	HB 373
7-8-2509	repealed	Ch. 255	HB 373
7-8-2511	repealed	Ch. 255	HB 373
7-8-2512	repealed	Ch. 255	HB 373
7-8-2513	amended	Ch. 255	HB 373
7-8-2515	amended	Ch. 255	HB 373
7-8-2519	enacted	Ch. 255	HB 373
7-8-2520	enacted	Ch. 255	HB 373
7-8-2521	enacted	Ch. 255	HB 373

7-8-2522	enacted	Ch. 255	HB 373
7-11-1008	amended	Ch. 424	SB 189
7-11-1010	enacted	Ch. 307	SB 274
7-11-1021	amended	Ch. 307	SB 274
	amended	Ch. 372	HB 405
7-11-1029	amended	Ch. 372	HB 405
7-12-2102	amended	Ch. 140	SB 79
7-12-2105	amended	Ch. 140	SB 79
7-12-2109	amended	Ch. 140	SB 79
7-12-2113	amended	Ch. 140	SB 79
7-13-2212	amended	Ch. 242	HB 83
7-13-2233	amended	Ch. 372	HB 405
7-15-4221	amended	Ch. 157	HB 396
	amended	Ch. 278	SB 27
7-15-4236	amended	Ch. 278	SB 27
7-15-4237	amended	Ch. 278	SB 27
7-15-4279	amended	Ch. 278	SB 27
7-15-4282	amended	Ch. 157	HB 396
7-15-4286	amended	Ch. 160	HB 30
7-15-4291	amended	Ch. 22	HB 76
7-21-4202	amended	Ch. 28	HB 166
7-22-2601	enacted	Ch. 348	HB 622
7-32-2255	enacted	Ch. 60	HB 258
7-33-2106	amended	Ch. 372	HB 405
7-33-2120	amended	Ch. 227	HB 492
7-33-2208	amended	Ch. 223	HB 427
7-33-2401	amended	Ch. 227	HB 492
7-33-4510	amended	Ch. 95	SB 142
7-34-103	amended	Ch. 95	SB 142
10-1-104	amended	Ch. 17	HB 39
10-1-112	enacted	Ch. 18	HB 40
10-1-408	amended	Ch. 53	HB 79
10-2-111	amended	Ch. 112	HB 279
10-2-417	amended	Ch. 77	HB 304
10-2-801	enacted	Ch. 106	HB 271
10-2-802	enacted	Ch. 106	HB 271
10-2-803	enacted	Ch. 106	HB 271
10-2-804	enacted	Ch. 106	HB 271
10-2-805	enacted	Ch. 106	HB 271
10-2-806	enacted	Ch. 106	HB 271
10-2-807	enacted	Ch. 106	HB 271
10-3-312	amended	Ch. 115	HB 3
10-3-1304	amended	Ch. 122	HB 307
10-4-101	amended	Ch. 367	HB 61
10-4-102	repealed	Ch. 367	HB 61
10-4-103	amended	Ch. 367	HB 61
10-4-104	repealed	Ch. 367	HB 61
10-4-105	enacted	Ch. 367	HB 61
10-4-106	enacted	Ch. 367	HB 61
10-4-107	enacted	Ch. 367	HB 61
10-4-108	enacted	Ch. 367	HB 61
10-4-109	enacted	Ch. 367	HB 61
10-4-111	repealed	Ch. 367	HB 61
10-4-112	repealed	Ch. 367	HB 61
10-4-113	repealed	Ch. 367	HB 61
10-4-114	repealed	Ch. 367	HB 61

10-4-115	repealed 7/1/2018	Ch. 367	HB	61
10-4-116	enacted	Ch. 367	HB	61
10-4-117	enacted	Ch. 367	HB	61
10-4-121	repealed	Ch. 367	HB	61
10-4-125	repealed	Ch. 367	HB	61
10-4-126	repealed	Ch. 367	HB	61
10-4-201	amended	Ch. 367	HB	61
10-4-204	amended	Ch. 367	HB	61
10-4-301	repealed 7/1/2018	Ch. 367	HB	61
	amended	Ch. 367	HB	61
	amended	Ch. 430	SB	294
10-4-302	repealed 7/1/2018	Ch. 367	HB	61
	amended	Ch. 367	HB	61
10-4-303	repealed 7/1/2018	Ch. 367	HB	61
10-4-304	enacted	Ch. 367	HB	61
10-4-305	enacted	Ch. 367	HB	61
10-4-306	enacted	Ch. 367	HB	61
10-4-307	enacted	Ch. 367	HB	61
10-4-308	enacted	Ch. 367	HB	61
10-4-309	enacted	Ch. 367	HB	61
10-4-311	repealed 7/1/2018	Ch. 367	HB	61
10-4-312	repealed 7/1/2018	Ch. 367	HB	61
10-4-313	repealed 7/1/2018	Ch. 367	HB	61
	amended	Ch. 367	HB	61
10-4-314	enacted	Ch. 367	HB	61
10-4-315	enacted	Ch. 367	HB	61
13-1-101	amended	Ch. 63	SB	3
	amended	Ch. 242	HB	83
	amended	Ch. 368	HB	103
13-1-116	amended	Ch. 368	HB	103
13-1-121	amended	Ch. 368	HB	103
13-1-122	repealed 1/1/2018	Ch. 368	HB	103
13-1-402	amended	Ch. 372	HB	405
13-1-403	amended	Ch. 242	HB	83
	amended	Ch. 372	HB	405
13-1-404	amended	Ch. 242	HB	83
13-1-501	amended	Ch. 372	HB	405
13-1-502	amended	Ch. 242	HB	83
13-1-502	amended	Ch. 372	HB	405
13-2-220	amended	Ch. 252	HB	287
	amended	Ch. 368	HB	103
13-2-301	amended	Ch. 242	HB	83
13-2-512	amended	Ch. 368	HB	103
13-2-513	amended	Ch. 368	HB	103
13-2-601	repealed 1/1/2018	Ch. 368	HB	103
13-2-602	repealed 1/1/2018	Ch. 368	HB	103
13-3-213	amended	Ch. 242	HB	83
	amended	Ch. 368	HB	103
13-4-102	amended	Ch. 365	SB	163
13-4-103	amended	Ch. 365	SB	163
13-4-107	amended	Ch. 365	SB	163
13-4-203	amended	Ch. 368	HB	103
13-10-202	amended	Ch. 172	HB	288
13-10-211	amended	Ch. 242	HB	83
13-10-404	amended	Ch. 172	HB	288
	amended	Ch. 368	HB	103

13-10-405	amended	Ch. 172	HB 288
13-10-602	amended	Ch. 368	HB 103
13-13-114	amended	Ch. 368	HB 103
13-13-205	amended	Ch. 242	HB 83
13-13-212	amended	Ch. 252	HB 287
13-13-213	amended	Ch. 368	HB 103
13-13-222	amended	Ch. 242	HB 83
13-13-226	amended	Ch. 365	SB 163
13-13-230	repealed 1/1/2018	Ch. 368	HB 103
13-13-241	amended	Ch. 368	HB 103
13-13-245	amended	Ch. 368	HB 103
13-14-115	amended	Ch. 168	SB 178
13-14-117	amended	Ch. 168	SB 178
13-15-105	amended	Ch. 368	HB 103
13-15-107	amended	Ch. 368	HB 103
13-15-205	amended	Ch. 368	HB 103
13-15-503	repealed 1/1/2018	Ch. 368	HB 103
13-19-303	amended	Ch. 368	HB 103
13-19-304	amended	Ch. 368	HB 103
13-21-104	amended	Ch. 368	HB 103
13-21-206	amended	Ch. 368	HB 103
13-27-103	amended	Ch. 368	HB 103
13-27-204	amended	Ch. 368	HB 103
13-27-205	amended	Ch. 368	HB 103
13-27-206	amended	Ch. 368	HB 103
13-27-207	amended	Ch. 368	HB 103
13-27-303	amended	Ch. 368	HB 103
13-27-304	amended	Ch. 368	HB 103
13-27-308	amended	Ch. 368	HB 103
13-27-311	amended	Ch. 368	HB 103
13-27-503	amended	Ch. 368	HB 103
13-35-207	amended	Ch. 368	HB 103
13-37-106	amended	Ch. 430	SB 294
13-37-226	amended	Ch. 48	HB 207
	amended	Ch. 63	SB 3
15-1-121	amended	Ch. 144	HB 316
	amended	Ch. 173	HB 422
	amended	Ch. 332	HB 565
15-1-122	amended	Ch. 360	HB 228
15-1-123	amended	Ch. 332	HB 565
15-1-211	amended	Ch. 102	SB 137
15-1-216	amended	Ch. 386	SB 317
15-1-601	amended	Ch. 268	HB 511
15-2-102	amended	Ch. 430	SB 294
15-2-302	amended	Ch. 102	SB 137
15-6-134	amended	Ch. 333	HB 583
15-6-156	amended	Ch. 438	SB 359
15-6-162	enacted	Ch. 438	SB 359
15-6-201	amended	Ch. 407	SB 324
15-6-203	amended	Ch. 249	HB 224
15-6-220	amended	Ch. 383	HB 614
15-6-235	enacted	Ch. 407	SB 324
15-6-240	enacted	Ch. 441	SB 94
15-6-301	amended	Ch. 7	HB 74
	amended	Ch. 272	HB 554
	amended	Ch. 275	SB 21

15-6-302	amended	Ch. 7	HB 74
	amended	Ch. 275	SB 21
15-6-305	amended	Ch. 7	HB 74
15-6-311	amended	Ch. 7	HB 74
	amended	Ch. 275	SB 21
15-6-312	enacted	Ch. 272	HB 554
15-7-102	amended	Ch. 7	HB 74
	amended	Ch. 20	HB 43
	amended	Ch. 275	SB 21
	amended	Ch. 441	SB 94
15-8-111	amended	Ch. 26	HB 115
15-10-420	amended	Ch. 328	HB 383
15-15-102	amended	Ch. 20	HB 43
15-16-101	amended	Ch. 67	HB 18
	amended	Ch. 441	SB 94
15-16-102	amended	Ch. 67	HB 18
15-16-305	repealed	Ch. 67	HB 18
15-16-506	enacted	Ch. 269	HB 516
15-16-701	amended	Ch. 67	HB 18
15-17-121	amended	Ch. 67	HB 18
15-17-122	amended	Ch. 67	HB 18
	amended	Ch. 372	HB 405
15-17-123	amended	Ch. 67	HB 18
15-17-124	amended	Ch. 67	HB 18
15-17-125	formerly 15-17-212	Ch. 67	HB 18
15-17-131	amended	Ch. 67	HB 18
15-17-211	repealed	Ch. 67	HB 18
15-17-212	amended and renumbered 15-17-125	Ch. 67	HB 18
15-17-213	repealed	Ch. 67	HB 18
15-17-214	repealed	Ch. 67	HB 18
15-17-317	amended	Ch. 67	HB 18
15-17-318	amended	Ch. 67	HB 18
15-17-320	amended	Ch. 67	HB 18
15-17-321	repealed	Ch. 67	HB 18
15-17-323	amended	Ch. 67	HB 18
15-17-324	amended	Ch. 67	HB 18
15-17-325	amended	Ch. 67	HB 18
15-17-326	amended	Ch. 67	HB 18
15-18-111	amended	Ch. 67	HB 18
15-18-112	amended	Ch. 67	HB 18
15-18-113	amended	Ch. 67	HB 18
15-18-114	amended	Ch. 67	HB 18
15-18-211	amended	Ch. 67	HB 18
15-18-212	amended	Ch. 14	SB 77
	amended	Ch. 67	HB 18
15-18-213	amended	Ch. 67	HB 18
15-18-214	amended	Ch. 67	HB 18
15-18-215	amended	Ch. 67	HB 18
15-18-216	amended	Ch. 67	HB 18
15-18-217	amended	Ch. 67	HB 18
15-18-218	amended	Ch. 67	HB 18
15-18-411	amended	Ch. 67	HB 18
15-18-412	amended	Ch. 67	HB 18
15-18-413	amended	Ch. 67	HB 18
15-23-101	amended	Ch. 438	SB 359
15-23-401	amended	Ch. 191	SB 180

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15-23-403	amended	Ch. 191	SB 180
15-24-921	amended	Ch. 119	HB 345
15-24-925	amended	Ch. 284	SB 73
15-24-1401	amended	Ch. 438	SB 359
15-24-1402	amended	Ch. 379	HB 226
15-30-2110	amended	Ch. 151	HB 137
	amended	Ch. 152	HB 175
	amended	Ch. 374	HB 597
	amended	Ch. 382	HB 574
15-30-2318	enacted	Ch. 381	HB 391
15-30-2336	repealed	Ch. 30	SB 10
15-30-2357	enacted	Ch. 380	HB 308
15-30-2368	repealed	Ch. 151	HB 137
15-30-2504	amended	Ch. 21	HB 63
15-30-2507	amended	Ch. 21	HB 63
15-30-2544	amended	Ch. 21	HB 63
15-30-2609	amended	Ch. 289	SB 138
15-30-2618	amended	Ch. 151	HB 137
	amended	Ch. 380	HB 308
15-30-2629	amended	Ch. 72	HB 112
15-30-3302	amended	Ch. 6	HB 42
	amended	Ch. 268	HB 511
15-30-3313	amended	Ch. 185	SB 252
15-31-119	amended	Ch. 409	HB 550
15-31-130	repealed	Ch. 151	HB 137
15-31-173	enacted	Ch. 380	HB 308
15-31-301	amended	Ch. 268	HB 511
15-31-302	amended	Ch. 268	HB 511
15-31-303	amended	Ch. 268	HB 511
15-31-304	amended	Ch. 268	HB 511
15-31-305	amended	Ch. 268	HB 511
15-31-306	amended	Ch. 268	HB 511
15-31-307	amended	Ch. 268	HB 511
15-31-308	amended	Ch. 268	HB 511
15-31-309	amended	Ch. 268	HB 511
15-31-310	amended	Ch. 268	HB 511
15-31-311	amended	Ch. 268	HB 511
15-31-312	amended	Ch. 268	HB 511
15-31-509	amended	Ch. 289	SB 138
15-31-511	amended	Ch. 151	HB 137
	amended	Ch. 380	HB 308
15-35-108	amended	Ch. 351	HB 648
	amended	Ch. 378	HB 209
15-36-304	amended	Ch. 91	SB 86
15-36-331	amended	Ch. 173	HB 422
15-36-332	amended	Ch. 173	HB 422
15-37-117	amended	Ch. 173	HB 422
15-39-110	amended	Ch. 173	HB 422
15-44-106	enacted	Ch. 333	HB 583
15-60-102	amended	Ch. 347	HB 618
15-60-211	amended	Ch. 347	HB 618
15-61-102	amended	Ch. 152	HB 175
	amended	Ch. 152	HB 175
15-61-202	amended	Ch. 298	SB 216
15-61-203	amended	Ch. 152	HB 175
15-61-204	amended	Ch. 152	HB 175

15-64-101	enacted	Ch. 408	SB 333
15-64-102	enacted	Ch. 408	SB 333
15-64-103	enacted	Ch. 408	SB 333
15-64-104	enacted	Ch. 408	SB 333
15-64-105	enacted	Ch. 408	SB 333
15-64-106	enacted	Ch. 408	SB 333
15-64-110	enacted	Ch. 408	SB 333
15-64-111	enacted	Ch. 408	SB 333
15-64-112	enacted	Ch. 408	SB 333
15-65-101	amended	Ch. 405	SB 309
15-65-121	amended	Ch. 405	SB 309
15-70-101	amended	Ch. 267	HB 473
15-70-102	amended	Ch. 267	HB 473
15-70-126	enacted	Ch. 267	HB 473
15-70-127	enacted	Ch. 267	HB 473
15-70-130	enacted	Ch. 267	HB 473
15-70-403	amended	Ch. 267	HB 473
	amended	Ch. 384	HB 650
15-70-404	amended	Ch. 267	HB 473
15-70-412	amended	Ch. 275	SB 21
15-70-419	amended	Ch. 267	HB 473
15-70-430	amended	Ch. 266	HB 466
15-70-456	amended	Ch. 267	HB 473
15-70-601	repealed	Ch. 32	SB 53
	enacted	Ch. 387	SB 363
	enacted	Ch. 387	SB 363
16-1-406	amended	Ch. 271	HB 541
16-3-213	amended	Ch. 271	HB 541
16-4-105	amended	Ch. 263	HB 428
16-4-314	enacted	Ch. 343	HB 462
16-4-501	amended	Ch. 271	HB 541
16-4-801	amended	Ch. 301	SB 344
16-11-119	amended	Ch. 77	HB 304
17-1-106	amended	Ch. 387	SB 363
17-1-508	amended	Ch. 360	HB 228
	amended	Ch. 374	HB 597
17-3-211	amended	Ch. 283	SB 46
17-3-212	amended	Ch. 283	SB 46
17-3-213	amended	Ch. 283	SB 46
17-5-205	amended	Ch. 108	HB 102
17-5-703	amended (replaced--sec. 3, Ch. 259)	Ch. 377	SB 260
17-5-903	amended	Ch. 267	HB 473
17-5-2001	amended	Ch. 443	SB 366
17-6-302	amended	Ch. 373	HB 585
	amended	Ch. 419	SB 140
17-6-308	amended	Ch. 373	HB 585
	amended	Ch. 419	SB 140
17-6-309	amended	Ch. 373	HB 585
17-6-311	amended	Ch. 373	HB 585
17-6-317	amended	Ch. 373	HB 585
17-6-320	enacted	Ch. 373	HB 585
17-7-102	amended	Ch. 429	SB 261
17-7-111	amended	Ch. 429	SB 261
17-7-130	enacted	Ch. 429	SB 261
17-7-131	amended	Ch. 429	SB 261
17-7-140	amended	Ch. 429	SB 261

17-7-154	amended	Ch. 358	HB 77
17-7-201	amended	Ch. 281	SB 43
17-7-202	amended	Ch. 281	SB 43
17-7-304	amended	Ch. 204	HB 539
17-7-502	amended	Ch. 32	SB 53
	amended	Ch. 55	HB 106
	amended	Ch. 77	HB 304
	amended	Ch. 106	HB 271
	amended	Ch. 122	HB 307
	amended	Ch. 247	HB 216
	amended	Ch. 250	HB 225
	amended	Ch. 267	HB 473
	amended	Ch. 284	SB 73
	amended	Ch. 312	SB 285
	amended	Ch. 326	HB 365
	amended	Ch. 336	HB 647
	amended	Ch. 351	HB 648
	amended	Ch. 360	HB 228
	amended	Ch. 364	HB 639
	amended	Ch. 367	HB 61
	amended	Ch. 374	HB 597
18-2-501	amended	Ch. 54	HB 92
	amended	Ch. 147	HB 520
18-4-311	repealed	Ch. 87	SB 54
18-7-411	amended	Ch. 372	HB 405
18-7-412	amended	Ch. 372	HB 405
18-7-413	amended	Ch. 372	HB 405
18-8-204	amended	Ch. 308	SB 278
18-8-212	amended	Ch. 308	SB 278
19-2-602	amended	Ch. 195	HB 101
19-2-603	amended	Ch. 195	HB 101
19-2-704	amended	Ch. 195	HB 101
19-2-716	enacted	Ch. 306	SB 268
19-2-902	amended	Ch. 195	HB 101
19-2-903	amended	Ch. 195	HB 101
19-2-904	amended	Ch. 195	HB 101
19-2-907	amended	Ch. 195	HB 101
19-2-1004	amended	Ch. 195	HB 101
19-3-108	amended	Ch. 195	HB 101
19-3-201	amended	Ch. 195	HB 101
19-3-320	enacted	Ch. 351	HB 648
19-3-403	amended	Ch. 195	HB 101
19-3-413	amended	Ch. 195	HB 101
19-3-1105	amended	Ch. 195	HB 101
19-3-1106	amended	Ch. 195	HB 101
19-3-2141	amended	Ch. 195	HB 101
19-5-502	amended	Ch. 195	HB 101
19-6-101	amended	Ch. 195	HB 101
19-6-1005	amended	Ch. 195	HB 101
19-6-1101	enacted	Ch. 195	HB 101
19-6-1102	enacted	Ch. 195	HB 101
19-7-101	amended	Ch. 195	HB 101
19-7-403	amended	Ch. 328	HB 383
19-7-404	amended	Ch. 328	HB 383
19-7-1101	amended	Ch. 195	HB 101
19-7-1102	enacted	Ch. 195	HB 101

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CODE SECTIONS AFFECTED

19-8-101	amended	Ch. 195	HB 101
19-8-1003	amended	Ch. 195	HB 101
19-8-1104	repealed	Ch. 195	HB 101
19-8-1201	enacted	Ch. 195	HB 101
19-8-1202	enacted	Ch. 195	HB 101
19-9-112	enacted	Ch. 195	HB 101
19-9-1204	amended	Ch. 195	HB 101
19-9-1207	amended	Ch. 195	HB 101
19-9-1301	amended	Ch. 195	HB 101
19-9-1302	enacted	Ch. 195	HB 101
19-9-1303	enacted	Ch. 195	HB 101
19-13-104	amended	Ch. 195	HB 101
19-13-212	amended	Ch. 195	HB 101
19-13-302	amended	Ch. 195	HB 101
19-13-1101	amended	Ch. 195	HB 101
19-13-1102	enacted	Ch. 195	HB 101
19-17-112	amended	Ch. 195	HB 101
19-17-407	amended	Ch. 195	HB 101
19-17-412	amended	Ch. 195	HB 101
19-17-502	amended	Ch. 195	HB 101
19-17-503	amended	Ch. 195	HB 101
19-17-506	repealed	Ch. 195	HB 101
19-18-503	amended	Ch. 64	SB 16
19-18-504	amended	Ch. 64	SB 16
19-20-101	amended	Ch. 39	HB 67
	amended	Ch. 150	SB 115
19-20-204	repealed	Ch. 39	HB 67
19-20-302	amended	Ch. 165	SB 121
19-20-305	amended	Ch. 39	HB 67
19-20-401	amended	Ch. 39	HB 67
19-20-403	amended	Ch. 39	HB 67
19-20-805	amended	Ch. 39	HB 67
19-20-905	amended	Ch. 39	HB 67
19-20-1002	amended	Ch. 39	HB 67
19-21-201	amended	Ch. 40	HB 68
20-1-301	amended	Ch. 149	SB 103
20-3-313	amended	Ch. 242	HB 83
20-4-134	amended	Ch. 150	SB 115
20-4-501	amended	Ch. 85	HB 119
20-4-503	amended	Ch. 85	HB 119
20-4-505	amended	Ch. 85	HB 119
20-4-506	amended	Ch. 85	HB 119
20-5-210	amended	Ch. 216	HB 248
20-5-426	enacted	Ch. 154	HB 323
20-6-326	amended	Ch. 205	SB 139
20-6-702	amended	Ch. 404	SB 307
20-7-102	amended	Ch. 275	SB 21
	amended	Ch. 336	HB 647
20-7-119	enacted	Ch. 303	SB 242
20-7-306	amended	Ch. 336	HB 647
20-7-1301	amended	Ch. 331	HB 487
20-7-1302	amended	Ch. 331	HB 487
20-7-1303	amended	Ch. 331	HB 487
20-7-1310	amended	Ch. 256	HB 381
20-7-1311	enacted	Ch. 218	HB 298
20-7-1315	enacted	Ch. 190	SB 135

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20-7-1316	enacted	Ch. 294	SB 197
20-7-1404	amended	Ch. 8	HB 113
	amended	Ch. 275	SB 21
20-9-116	enacted	Ch. 404	SB 307
20-9-141	amended	Ch. 336	HB 647
20-9-236	amended	Ch. 404	SB 307
20-9-306	amended	Ch. 47	HB 191
	amended	Ch. 275	SB 21
	amended	Ch. 336	HB 647
20-9-310	amended	Ch. 173	HB 422
	amended	Ch. 336	HB 647
20-9-314	amended	Ch. 259	HB 390
20-9-342	amended	Ch. 336	HB 647
20-9-343	amended	Ch. 404	SB 307
20-9-344	amended	Ch. 336	HB 647
20-9-366	amended	Ch. 336	HB 647
20-9-367	amended	Ch. 404	SB 307
20-9-380enacted (replaced--sec. 3, Ch. 259)	Ch. 377	SB 260	
20-9-410	amended	Ch. 337	SB 124
20-9-471	amended	Ch. 1	SB 5
20-9-502 amended (void--sec. 13, Ch. 404)	Ch. 205	SB 139	
	amended	Ch. 404	SB 307
20-9-503	amended	Ch. 1	SB 5
20-9-516	amended	Ch. 404	SB 307
20-9-517	amended	Ch. 336	HB 647
20-9-518	amended	Ch. 336	HB 647
20-9-520	amended	Ch. 336	HB 647
20-9-525	enacted	Ch. 404	SB 307
20-9-534	amended	Ch. 259	HB 390
20-9-537	amended	Ch. 232	HB 37
20-9-622	amended	Ch. 336	HB 647
20-9-630	amended	Ch. 205	SB 139
	amended	Ch. 332	HB 565
	amended	Ch. 336	HB 647
20-9-632	amended	Ch. 336	HB 647
20-9-635	enacted	Ch. 336	HB 647
20-9-638	enacted	Ch. 336	HB 647
20-9-640	enacted	Ch. 416	SB 95
20-10-101	amended	Ch. 221	HB 355
20-10-103	amended	Ch. 221	HB 355
20-10-141	amended	Ch. 221	HB 355
20-10-145	amended	Ch. 299	SB 227
20-10-148	enacted	Ch. 221	HB 355
20-15-101	amended	Ch. 74	HB 232
20-15-301	amended	Ch. 421	SB 159
20-15-310	amended	Ch. 336	HB 647
20-15-327	enacted	Ch. 421	SB 159
20-20-204	amended	Ch. 242	HB 83
20-25-428	amended	Ch. 105	SB 6
20-25-810	enacted	Ch. 436	SB 341
20-25-1315	enacted	Ch. 231	SB 44
20-25-1316	enacted	Ch. 231	SB 44
20-25-1317	enacted	Ch. 231	SB 44
20-25-1318	enacted	Ch. 231	SB 44
20-25-1319	enacted	Ch. 231	SB 44
20-25-1320	enacted	Ch. 231	SB 44

20-25-1403	amended	Ch. 231	SB 44
20-26-621	enacted	Ch. 234	HB 185
20-26-622	enacted	Ch. 234	HB 185
20-26-623	enacted	Ch. 234	HB 185
20-26-1501	amended	Ch. 436	SB 341
20-26-1502	amended	Ch. 436	SB 341
20-26-1503	amended	Ch. 310	SB 283
	amended	Ch. 436	SB 341
20-31-402	amended	Ch. 146	HB 421
22-1-202	enacted	Ch. 351	HB 648
22-3-429	amended	Ch. 148	HB 523
23-2-409	amended	Ch. 297	SB 213
23-2-636	amended	Ch. 187	HB 240
23-2-824	amended	Ch. 434	SB 314
23-4-105	amended	Ch. 113	SB 128
23-4-106	amended	Ch. 2	SB 13
23-4-302	amended	Ch. 113	SB 128
23-4-304	amended	Ch. 113	SB 128
23-5-112	amended	Ch. 276	SB 25
23-5-118	amended	Ch. 301	SB 344
23-5-157	amended	Ch. 403	SB 302
23-5-413	amended	Ch. 276	SB 25
23-5-503	amended	Ch. 273	HB 564
23-5-622	amended	Ch. 276	SB 25
23-5-629	amended	Ch. 276	SB 25
25-9-205	amended	Ch. 446	SB 293
25-13-603	enacted	Ch. 298	SB 216
25-13-608	amended	Ch. 298	SB 216
25-31-601	amended	Ch. 189	HB 521
25-35-505	amended	Ch. 189	HB 521
26-2-506	amended	Ch. 358	HB 77
27-1-210	amended	Ch. 446	SB 293
27-1-714	amended	Ch. 103	SB 107
27-1-752	amended	Ch. 137	HB 342
28-3-704	amended	Ch. 313	SB 286
30-10-103	amended	Ch. 84	HB 24
30-10-104	amended	Ch. 151	HB 137
30-10-115	amended	Ch. 151	HB 137
30-10-119	enacted	Ch. 84	HB 24
30-10-209	amended	Ch. 151	HB 137
30-10-340	enacted	Ch. 84	HB 24
30-10-341	enacted	Ch. 84	HB 24
30-10-342	enacted	Ch. 84	HB 24
30-10-1003	amended	Ch. 84	HB 24
30-11-809	amended	Ch. 181	SB 169
30-11-814	enacted	Ch. 181	SB 169
30-11-908	amended	Ch. 181	SB 169
30-11-914	enacted	Ch. 181	SB 169
30-13-204	amended	Ch. 23	HB 80
30-13-213	amended	Ch. 23	HB 80
30-14-151	renumbered 30-14-2201		
30-14-152	renumbered 30-14-2202		
30-14-153	renumbered 30-14-2203		
30-14-154	renumbered 30-14-2204		
30-14-155	renumbered 30-14-2205		
30-14-156	renumbered 30-14-2206		

30-14-157	renumbered 30-14-2207		
30-14-2201	formerly 30-14-151		
30-14-2202	formerly 30-14-152		
30-14-2203	formerly 30-14-153		
30-14-2204	formerly 30-14-154		
30-14-2205	formerly 30-14-155		
30-14-2206	formerly 30-14-156		
30-14-2207	formerly 30-14-157		
30-14-2502	amended	Ch. 93	SB 108
30-14-2601	enacted	Ch. 315	SB 292
30-14-2602	enacted	Ch. 315	SB 292
31-2-106	amended	Ch. 298	SB 216
32-5-103	amended	Ch. 101	SB 165
32-9-169	amended	Ch. 275	SB 21
32-11-306	amended	Ch. 5	HB 25
33-1-102	amended	Ch. 210	HB 73
33-1-104	repealed	Ch. 396	SB 167
33-1-409	amended	Ch. 9	HB 120
33-1-502	amended	Ch. 151	HB 137
33-1-707	amended	Ch. 396	SB 167
33-1-1202	amended	Ch. 396	SB 167
33-1-1205	amended	Ch. 396	SB 167
33-1-1211	amended	Ch. 396	SB 167
33-1-1302	amended	Ch. 396	SB 167
33-1-1501	enacted	Ch. 396	SB 167
33-1-1502	enacted	Ch. 396	SB 167
33-1-1503	enacted	Ch. 396	SB 167
33-1-1504	enacted	Ch. 396	SB 167
33-1-1505	enacted	Ch. 396	SB 167
33-1-1506	enacted	Ch. 396	SB 167
33-1-1507	enacted	Ch. 396	SB 167
33-1-1508	enacted	Ch. 396	SB 167
33-1-1509	enacted	Ch. 396	SB 167
33-1-1510	enacted	Ch. 396	SB 167
33-1-1511	enacted	Ch. 396	SB 167
33-1-1512	enacted	Ch. 396	SB 167
33-2-101	amended	Ch. 396	SB 167
33-2-104	amended	Ch. 396	SB 167
33-2-308	amended	Ch. 396	SB 167
33-2-705	amended	Ch. 304	SB 245
33-2-1104	amended	Ch. 9	HB 120
33-2-1105	amended	Ch. 9	HB 120
33-2-1111	amended	Ch. 9	HB 120
33-2-1112	amended	Ch. 275	SB 21
33-2-1113	amended	Ch. 9	HB 120
33-2-1115	amended	Ch. 9	HB 120
33-2-1120	amended	Ch. 396	SB 167
33-2-1216	amended	Ch. 9	HB 120
33-2-1304	amended	Ch. 151	HB 137
33-2-1310	amended	Ch. 396	SB 167
33-2-1363	amended	Ch. 151	HB 137
33-2-1902	amended	Ch. 9	HB 120
33-2-1903	amended	Ch. 9	HB 120
33-2-1904	amended	Ch. 9	HB 120
33-2-1907	amended	Ch. 9	HB 120
33-2-1910	amended	Ch. 9	HB 120

33-2-2101	enacted	Ch. 9	HB 120
33-2-2102	enacted	Ch. 9	HB 120
33-2-2103	enacted	Ch. 9	HB 120
33-2-2104	enacted	Ch. 9	HB 120
33-2-2105	enacted	Ch. 9	HB 120
33-2-2106	enacted	Ch. 9	HB 120
33-2-2107	enacted	Ch. 9	HB 120
33-2-2108	enacted	Ch. 9	HB 120
33-2-2109	enacted	Ch. 9	HB 120
33-2-2201	enacted	Ch. 210	HB 73
33-2-2202	enacted	Ch. 210	HB 73
33-2-2203	enacted	Ch. 210	HB 73
33-2-2206	enacted	Ch. 210	HB 73
33-2-2207	enacted	Ch. 210	HB 73
33-2-2208	enacted	Ch. 210	HB 73
33-2-2211	enacted	Ch. 210	HB 73
33-2-2212	enacted	Ch. 210	HB 73
33-2-2213	enacted	Ch. 210	HB 73
33-2-2301	enacted	Ch. 231	SB 44
33-2-2302	enacted	Ch. 231	SB 44
33-2-2303	enacted	Ch. 231	SB 44
33-2-2304	enacted	Ch. 231	SB 44
33-2-2305	enacted	Ch. 231	SB 44
33-2-2306	enacted	Ch. 231	SB 44
33-3-304	amended	Ch. 396	SB 167
33-3-401	amended	Ch. 396	SB 167
33-3-424	amended	Ch. 396	SB 167
33-3-453	amended	Ch. 151	HB 137
33-3-601	amended	Ch. 151	HB 137
33-3-602	amended	Ch. 151	HB 137
33-3-603	amended	Ch. 151	HB 137
33-4-103	amended	Ch. 151	HB 137
33-4-204	amended	Ch. 151	HB 137
33-17-102	amended	Ch. 151	HB 137
33-17-231	amended	Ch. 38	HB 138
33-17-236	amended	Ch. 38	HB 138
33-17-238	enacted	Ch. 38	HB 138
33-17-243	amended	Ch. 151	HB 137
33-17-301	amended	Ch. 151	HB 137
33-17-1004	amended	Ch. 396	SB 167
33-17-1102	amended	Ch. 396	SB 167
33-18-210	amended	Ch. 178	SB 58
33-18-212	amended	Ch. 396	SB 167
33-18-301	amended	Ch. 151	HB 137
33-18-401	repealed	Ch. 396	SB 167
33-18-609	amended	Ch. 151	HB 137
33-19-105	amended	Ch. 151	HB 137
33-19-202	amended	Ch. 151	HB 137
33-19-410	repealed	Ch. 396	SB 167
33-20-141	amended	Ch. 324	HB 145
33-20-309	enacted	Ch. 177	SB 222
33-20-802	amended	Ch. 324	HB 145
33-20-804	amended	Ch. 324	HB 145
33-20-805	amended	Ch. 324	HB 145
33-20-807	enacted	Ch. 324	HB 145
33-20-905	amended	Ch. 177	SB 222

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33-20-1003	repealed	Ch. 396	SB 167
33-22-111	amended	Ch. 206	HB 469
33-22-138	amended	Ch. 94	SB 129
33-22-157	amended	Ch. 151	HB 137
33-22-170	amended	Ch. 136	HB 276
33-22-172	amended	Ch. 136	HB 276
33-22-174	enacted	Ch. 136	HB 276
33-22-301	amended	Ch. 151	HB 137
33-22-701	amended	Ch. 245	HB 142
33-22-702	amended	Ch. 245	HB 142
33-22-703	amended	Ch. 245	HB 142
33-22-704	repealed 1/1/2018	Ch. 245	HB 142
33-22-705	amended	Ch. 245	HB 142
33-22-706	repealed 1/1/2018	Ch. 245	HB 142
33-22-710	enacted	Ch. 245	HB 142
33-22-906	amended	Ch. 151	HB 137
33-22-1815	amended	Ch. 151	HB 137
33-22-1816	amended	Ch. 151	HB 137
33-22-2001	repealed	Ch. 151	HB 137
33-22-2002	repealed	Ch. 151	HB 137
33-22-2003	repealed	Ch. 151	HB 137
33-22-2004	repealed	Ch. 151	HB 137
33-22-2005	repealed	Ch. 151	HB 137
33-22-2006	repealed	Ch. 151	HB 137
33-22-2007	repealed	Ch. 151	HB 137
33-22-2008	repealed	Ch. 151	HB 137
33-22-2009	repealed	Ch. 151	HB 137
	amended	Ch. 396	SB 167
33-23-401	amended	Ch. 396	SB 167
33-28-101	amended	Ch. 151	HB 137
33-28-105	amended	Ch. 151	HB 137
	amended	Ch. 304	SB 245
33-28-108	amended	Ch. 304	SB 245
33-28-109	amended	Ch. 151	HB 137
33-28-111	enacted	Ch. 151	HB 137
33-28-306	amended	Ch. 151	HB 137
33-28-401	enacted	Ch. 304	SB 245
33-30-102	amended	Ch. 151	HB 137
	amended	Ch. 231	SB 44
33-30-1020	enacted	Ch. 206	HB 469
33-31-111	amended	Ch. 151	HB 137
	amended	Ch. 231	SB 44
	amended	Ch. 245	HB 142
33-31-211	amended	Ch. 151	HB 137
33-31-212	amended	Ch. 151	HB 137
33-31-401	amended	Ch. 151	HB 137
33-32-102	amended	Ch. 151	HB 137
33-32-103	amended	Ch. 151	HB 137
33-32-403	amended	Ch. 151	HB 137
33-32-410	amended	Ch. 151	HB 137
33-32-412	amended	Ch. 151	HB 137
33-32-417	amended	Ch. 151	HB 137
33-32-423	amended	Ch. 151	HB 137
33-35-306	amended	Ch. 231	SB 44
	amended	Ch. 245	HB 142
35-1-113	amended	Ch. 23	HB 80

35-1-217	amended	Ch. 151	HB 137
35-1-931	amended	Ch. 151	HB 137
35-1-932	amended	Ch. 151	HB 137
35-1-1039	amended	Ch. 23	HB 80
35-2-119	amended	Ch. 151	HB 137
35-2-720	amended	Ch. 151	HB 137
35-2-721	amended	Ch. 151	HB 137
35-2-833	amended	Ch. 23	HB 80
35-6-104	amended	Ch. 23	HB 80
35-7-110	amended	Ch. 23	HB 80
35-8-208	amended	Ch. 23	HB 80
35-8-301	amended	Ch. 189	HB 521
35-8-913	amended	Ch. 23	HB 80
35-8-914	enacted	Ch. 23	HB 80
35-8-1001	amended	Ch. 23	HB 80
35-8-1012	amended	Ch. 23	HB 80
35-10-721	amended	Ch. 23	HB 80
35-12-1201	amended	Ch. 23	HB 80
35-12-1313	amended	Ch. 23	HB 80
35-18-317	amended	Ch. 130	HB 172
37-1-108	enacted	Ch. 322	HB 141
37-1-121	amended	Ch. 322	HB 141
37-1-122	enacted	Ch. 322	HB 141
37-1-131	amended	Ch. 322	HB 141
37-2-104	amended	Ch. 253	HB 333
37-2-302	amended	Ch. 59	HB 184
37-3-102	amended	Ch. 225	HB 476
37-3-104	amended	Ch. 225	HB 476
37-3-305	amended	Ch. 156	HB 362
37-4-401	amended	Ch. 288	SB 120
37-4-405	amended	Ch. 288	SB 120
37-7-101	amended	Ch. 33	SB 68
37-7-105	amended	Ch. 58	HB 177
37-7-201	amended	Ch. 33	SB 68
37-7-502	amended	Ch. 42	HB 233
37-7-504	amended	Ch. 42	HB 233
37-7-505	amended	Ch. 42	HB 233
37-7-601	amended	Ch. 33	SB 68
37-7-602	amended	Ch. 33	SB 68
37-7-603	amended	Ch. 33	SB 68
37-7-604	amended	Ch. 33	SB 68
37-7-605	amended	Ch. 33	SB 68
37-7-606	amended	Ch. 33	SB 68
37-7-609	amended	Ch. 33	SB 68
37-7-610	amended	Ch. 33	SB 68
37-7-611	enacted	Ch. 33	SB 68
37-7-612	enacted	Ch. 33	SB 68
37-8-451	repealed 1/1/2019	Ch. 445	SB 166
37-8-452	repealed 1/1/2019	Ch. 445	SB 166
37-8-501	enacted	Ch. 445	SB 166
37-11-101	amended	Ch. 257	HB 386
37-11-307	amended	Ch. 36	HB 105
37-11-312	enacted	Ch. 36	HB 105
37-11-316	enacted	Ch. 36	HB 105
37-15-301	amended	Ch. 90	HB 347
37-15-303	amended	Ch. 90	HB 347

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37-15-307	amended	Ch. 90	HB 347
37-17-104	amended	Ch. 158	HB 470
37-17-401	enacted	Ch. 425	SB 193
37-17-402	enacted	Ch. 425	SB 193
37-17-403	enacted	Ch. 425	SB 193
37-17-404	enacted	Ch. 425	SB 193
37-17-405	enacted	Ch. 425	SB 193
37-17-406	enacted	Ch. 425	SB 193
37-31-304	amended	Ch. 260	HB 393
37-31-311	amended	Ch. 260	HB 393
37-37-102	amended	Ch. 158	HB 470
37-38-101	enacted	Ch. 127	SB 62
37-38-102	enacted	Ch. 127	SB 62
37-38-106	enacted	Ch. 127	SB 62
37-38-201	enacted	Ch. 127	SB 62
37-38-202	enacted	Ch. 127	SB 62
37-47-101	amended	Ch. 217	HB 289
37-47-201	amended	Ch. 217	HB 289
37-47-325	amended	Ch. 217	HB 289
37-47-404	amended	Ch. 217	HB 289
37-50-101	amended	Ch. 162	HB 500
37-50-301	amended	Ch. 162	HB 500
37-50-325	amended	Ch. 162	HB 500
37-50-330	amended	Ch. 162	HB 500
37-50-335	amended	Ch. 162	HB 500
37-51-204	amended	Ch. 27	HB 122
37-51-302	amended	Ch. 27	HB 122
37-51-305	repealed	Ch. 27	HB 122
37-51-308	amended	Ch. 27	HB 122
37-51-309	amended	Ch. 27	HB 122
37-51-313	amended	Ch. 27	HB 122
37-51-321	amended	Ch. 27	HB 122
37-51-603	amended	Ch. 27	HB 122
37-51-605	amended	Ch. 27	HB 122
37-54-102	amended	Ch. 55	HB 106
37-54-105	amended	Ch. 55	HB 106
37-54-112	amended	Ch. 55	HB 106
37-54-113	enacted	Ch. 55	HB 106
37-54-503	amended	Ch. 55	HB 106
37-54-511	amended	Ch. 55	HB 106
37-68-102	amended	Ch. 12	SB 36
37-68-103	amended	Ch. 12	SB 36
39-2-710	enacted	Ch. 319	SB 325
39-3-501	amended	Ch. 67	HB 18
39-6-109	enacted	Ch. 380	HB 308
39-51-2116	amended	Ch. 37	HB 125
39-51-2404	amended	Ch. 10	HB 132
39-51-2410	amended	Ch. 10	HB 132
39-51-2602	amended	Ch. 37	HB 125
39-71-107	amended	Ch. 433	SB 312
39-71-117	amended	Ch. 89	HB 346
39-71-118	amended	Ch. 95	SB 142
39-71-123	amended	Ch. 329	HB 449
39-71-704	amended	Ch. 433	SB 312
39-71-743	amended	Ch. 433	SB 312
39-71-2211	amended	Ch. 193	SB 275

39-71-2352	amended contingently	Ch. 429	SB 261
40-1-201	amended	Ch. 393	SB 123
40-4-219	amended	Ch. 394	SB 153
40-5-701	amended	Ch. 397	SB 172
40-5-704	amended	Ch. 397	SB 172
40-5-710	amended	Ch. 397	SB 172
40-5-711	amended	Ch. 397	SB 172
40-5-906	amended	Ch. 81	SB 4
40-15-102	amended	Ch. 394	SB 153
41-3-112	amended	Ch. 132	HB 201
41-3-122	enacted	Ch. 270	HB 517
41-3-123	enacted	Ch. 235	HB 303
41-3-201	amended	Ch. 235	HB 303
41-3-205	amended	Ch. 99	SB 229
	amended	Ch. 180	SB 113
	amended	Ch. 235	HB 303
41-3-208	amended	Ch. 180	SB 113
41-3-301	amended	Ch. 394	SB 153
41-3-302	amended	Ch. 141	HB 64
41-3-305	amended	Ch. 141	HB 64
41-3-422	amended	Ch. 52	HB 59
41-3-425	amended	Ch. 52	HB 59
41-3-443	amended	Ch. 131	HB 173
41-3-445	amended	Ch. 182	HB 351
41-3-604	amended	Ch. 131	HB 173
41-3-607	amended	Ch. 388	SB 22
41-3-801	enacted	Ch. 388	SB 22
41-3-802	enacted	Ch. 388	SB 22
41-3-803	enacted	Ch. 388	SB 22
41-5-111	amended	Ch. 358	HB 77
41-5-206	amended	Ch. 321	HB 133
41-5-215	amended	Ch. 45	HB 111
41-5-216	amended	Ch. 45	HB 111
	amended	Ch. 56	HB 135
	amended	Ch. 408	SB 333
41-5-220	amended	Ch. 56	HB 135
41-5-1413	amended	Ch. 358	HB 77
41-5-1513	amended	Ch. 208	SB 17
41-5-1524	amended	Ch. 56	HB 135
42-2-405	amended	Ch. 358	HB 77
44-1-110	enacted	Ch. 384	HB 650
44-1-501	amended (void--sec. 32, Ch. 384)	Ch. 267	HB 473
	amended	Ch. 384	HB 650
	amended	Ch. 414	SB 57
44-1-504	amended	Ch. 414	SB 57
44-3-201	amended	Ch. 194	HB 45
44-3-203	amended	Ch. 194	HB 45
44-3-205	enacted	Ch. 194	HB 45
44-4-301	renumbered 44-7-101	Ch. 384	HB 650
44-4-310	renumbered 44-7-202	Ch. 384	HB 650
44-4-311	amended	Ch. 104	SB 67
	renumbered 44-7-201	Ch. 384	HB 650
	amended	Ch. 394	SB 153
44-4-312	renumbered 44-7-203	Ch. 384	HB 650
44-4-313	renumbered 44-7-204	Ch. 384	HB 650
	amended	Ch. 384	HB 650

44-4-1601	enacted	Ch. 346	HB 604
44-4-1602	enacted	Ch. 346	HB 604
44-4-1603	enacted	Ch. 346	HB 604
44-4-1604	enacted	Ch. 346	HB 604
44-4-1605	enacted	Ch. 346	HB 604
44-4-1606	enacted	Ch. 346	HB 604
44-4-1607	enacted	Ch. 346	HB 604
44-4-1608	enacted	Ch. 346	HB 604
44-4-1609	enacted	Ch. 346	HB 604
44-5-202	amended	Ch. 321	HB 133
44-5-303	amended	Ch. 235	HB 303
44-7-101	formerly 44-4-301	Ch. 384	HB 650
44-7-110	enacted	Ch. 49	HB 237
44-7-115	enacted	Ch. 390	SB 59
44-7-120	enacted	Ch. 179	SB 65
44-7-201	formerly 44-4-311	Ch. 384	HB 650
44-7-202	formerly 44-4-310	Ch. 384	HB 650
44-7-203	formerly 44-4-312	Ch. 384	HB 650
44-7-204	formerly 44-4-313	Ch. 384	HB 650
44-7-210	enacted	Ch. 104	SB 67
44-14-101	enacted	Ch. 295	SB 200
45-1-205	amended	Ch. 413	SB 30
45-2-101	amended	Ch. 321	HB 133
45-5-206	amended	Ch. 104	SB 67
	amended	Ch. 394	SB 153
45-5-207	amended	Ch. 321	HB 133
45-5-209	amended	Ch. 394	SB 153
45-5-214	amended	Ch. 321	HB 133
45-5-215	enacted	Ch. 394	SB 153
45-5-501	amended	Ch. 279	SB 29
45-5-503	amended	Ch. 277	SB 26
	amended	Ch. 279	SB 29
	amended	Ch. 321	HB 133
45-5-507	amended	Ch. 226	HB 482
	amended	Ch. 321	HB 133
45-5-508	enacted	Ch. 279	SB 29
45-5-624	amended	Ch. 45	HB 111
45-5-625	amended	Ch. 134	HB 247
	amended	Ch. 321	HB 133
45-5-626	amended	Ch. 253	HB 333
45-6-301	amended	Ch. 151	HB 137
	amended	Ch. 321	HB 133
	amended	Ch. 396	SB 167
45-6-309	amended	Ch. 321	HB 133
45-6-316	amended	Ch. 321	HB 133
45-6-317	amended	Ch. 321	HB 133
45-6-325	amended	Ch. 321	HB 133
45-6-332	amended	Ch. 321	HB 133
45-6-345	enacted	Ch. 321	HB 133
45-8-101	amended	Ch. 321	HB 133
45-8-102	amended	Ch. 321	HB 133
45-8-111	amended	Ch. 321	HB 133
45-8-315	amended	Ch. 230	HB 251
45-8-316	amended	Ch. 230	HB 251
45-8-321	amended	Ch. 171	HB 273
45-8-340	amended	Ch. 275	SB 21

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CODE SECTIONS AFFECTED

45-9-101	amended	Ch. 321	HB 133
45-9-102	amended	Ch. 253	HB 333
	amended	Ch. 321	HB 133
45-9-103	amended	Ch. 321	HB 133
45-9-107	amended	Ch. 253	HB 333
45-9-110	amended	Ch. 321	HB 133
45-9-208	repealed	Ch. 321	HB 133
45-10-103	amended	Ch. 253	HB 333
45-10-107	amended	Ch. 96	SB 228
45-10-108	repealed	Ch. 321	HB 133
46-1-202	amended	Ch. 321	HB 133
46-1-502	amended	Ch. 394	SB 153
46-1-1104	amended	Ch. 282	SB 45
46-1-1204	amended	Ch. 282	SB 45
46-4-103	amended	Ch. 194	HB 45
46-4-105	enacted	Ch. 384	HB 650
46-4-110	amended	Ch. 194	HB 45
46-4-122	amended	Ch. 194	HB 45
46-4-304	amended	Ch. 358	HB 77
46-5-111	enacted	Ch. 201	HB 147
46-5-112	enacted	Ch. 201	HB 147
46-5-113	enacted	Ch. 201	HB 147
46-5-117	enacted	Ch. 202	HB 149
46-5-118	enacted	Ch. 202	HB 149
46-5-119	enacted	Ch. 202	HB 149
46-5-222	amended	Ch. 428	SB 258
46-5-307	amended	Ch. 295	SB 200
46-5-502	amended	Ch. 86	HB 146
46-5-510	amended	Ch. 86	HB 146
46-5-601	enacted	Ch. 246	HB 148
46-5-602	enacted	Ch. 246	HB 148
46-5-605	enacted	Ch. 246	HB 148
46-5-606	enacted	Ch. 246	HB 148
46-5-607	enacted	Ch. 246	HB 148
46-5-612	enacted	Ch. 246	HB 148
46-5-613	enacted	Ch. 246	HB 148
46-5-614	enacted	Ch. 246	HB 148
46-6-311	amended	Ch. 394	SB 153
46-8-101	amended	Ch. 358	HB 77
46-8-104	amended	Ch. 358	HB 77
46-8-113	amended	Ch. 170	HB 62
46-9-108	amended	Ch. 394	SB 153
46-9-109	amended	Ch. 390	SB 59
46-9-203	repealed	Ch. 390	SB 59
46-9-302	amended	Ch. 394	SB 153
46-11-801	enacted	Ch. 401	SB 250
46-15-115	amended	Ch. 358	HB 77
46-16-226	amended	Ch. 394	SB 153
46-17-203	amended	Ch. 358	HB 77
46-18-111	amended	Ch. 199	SB 60
46-18-112	amended	Ch. 199	SB 60
46-18-201	amended	Ch. 61	HB 278
	amended	Ch. 321	HB 133
	amended	Ch. 384	HB 650
46-18-203	amended	Ch. 391	SB 63
46-18-204	amended	Ch. 321	HB 133

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46-18-205	amended	Ch. 321	HB 133
46-18-208	amended	Ch. 391	SB 63
46-18-219	amended	Ch. 279	SB 29
	amended	Ch. 394	SB 153
46-18-222	amended	Ch. 279	SB 29
	amended	Ch. 321	HB 133
46-18-231	amended	Ch. 277	SB 26
	amended	Ch. 321	HB 133
46-18-501	repealed	Ch. 321	HB 133
46-18-502	amended	Ch. 321	HB 133
46-18-1101	enacted	Ch. 197	HB 168
46-21-111	amended	Ch. 358	HB 77
46-21-201	amended	Ch. 358	HB 77
46-23-103	amended	Ch. 392	SB 64
46-23-104	amended	Ch. 392	SB 64
46-23-110	amended	Ch. 392	SB 64
46-23-111	enacted	Ch. 392	SB 64
46-23-201	amended	Ch. 392	SB 64
46-23-202	amended	Ch. 392	SB 64
46-23-208	amended	Ch. 392	SB 64
46-23-215	amended	Ch. 392	SB 64
46-23-218	amended	Ch. 392	SB 64
46-23-502	amended	Ch. 277	SB 26
	amended	Ch. 279	SB 29
	amended	Ch. 394	SB 153
46-23-509	amended	Ch. 275	SB 21
46-23-1001	amended	Ch. 392	SB 64
46-23-1002	amended	Ch. 179	SB 65
46-23-1003	amended	Ch. 392	SB 64
46-23-1004	amended	Ch. 199	SB 60
46-23-1011	amended	Ch. 391	SB 63
46-23-1015	amended	Ch. 391	SB 63
46-23-1021	amended	Ch. 392	SB 64
46-23-1023	amended	Ch. 392	SB 64
46-23-1024	amended	Ch. 392	SB 64
46-23-1025	amended	Ch. 392	SB 64
46-23-1028	enacted	Ch. 390	SB 59
46-23-1040	enacted	Ch. 179	SB 65
46-23-1041	enacted	Ch. 179	SB 65
46-24-301	enacted	Ch. 335	HB 600
46-24-302	enacted	Ch. 335	HB 600
46-24-307	enacted	Ch. 335	HB 600
47-1-103	amended	Ch. 358	HB 77
47-1-104	amended	Ch. 358	HB 77
47-1-105	amended	Ch. 358	HB 77
47-1-110	amended	Ch. 358	HB 77
47-1-111	amended	Ch. 358	HB 77
47-1-118	amended and renumbered 47-1-401	Ch. 358	HB 77
47-1-119	enacted	Ch. 358	HB 77
47-1-120	formerly 47-1-210	Ch. 358	HB 77
47-1-121	formerly 47-1-216	Ch. 358	HB 77
47-1-125	enacted	Ch. 358	HB 77
47-1-126	enacted	Ch. 35	HB 89
47-1-201	amended	Ch. 358	HB 77
47-1-202	amended	Ch. 358	HB 77
47-1-205	amended (void--sec. 2, Ch. 117)	Ch. 117	HB 65

47-1-205	amended and renumbered 47-1-301	Ch. 358	HB 77
47-1-210	amended and renumbered 47-1-120	Ch. 358	HB 77
47-1-215	amended	Ch. 358	HB 77
47-1-216	amended and renumbered 47-1-121	Ch. 358	HB 77
47-1-301	formerly 47-1-205	Ch. 358	HB 77
47-1-401	formerly 47-1-118	Ch. 358	HB 77
49-4-304	amended	Ch. 323	HB 144
50-2-116	amended	Ch. 28	HB 166
50-4-803	amended	Ch. 81	SB 4
50-4-805	amended	Ch. 81	SB 4
50-4-810	repealed	Ch. 81	SB 4
50-4-811	repealed	Ch. 81	SB 4
50-5-101	amended	Ch. 345	HB 572
50-5-224	enacted	Ch. 402	SB 272
50-5-226	amended	Ch. 402	SB 272
50-5-227	amended	Ch. 402	SB 272
50-5-247	enacted	Ch. 345	HB 572
50-5-701	enacted	Ch. 129	HB 163
50-5-702	enacted	Ch. 129	HB 163
50-5-703	enacted	Ch. 129	HB 163
50-5-704	enacted	Ch. 129	HB 163
50-5-705	enacted	Ch. 129	HB 163
50-5-706	enacted	Ch. 129	HB 163
50-5-707	enacted	Ch. 129	HB 163
50-5-1301	enacted	Ch. 285	SB 92
50-5-1302	enacted	Ch. 285	SB 92
50-5-1303	enacted	Ch. 285	SB 92
50-5-1304	enacted	Ch. 285	SB 92
50-5-1305	enacted	Ch. 285	SB 92
50-5-1306	enacted	Ch. 285	SB 92
50-5-1307	enacted	Ch. 285	SB 92
50-5-1308	enacted	Ch. 285	SB 92
50-6-306	amended	Ch. 315	SB 292
50-6-320	amended	Ch. 210	HB 73
50-12-201	enacted	Ch. 153	HB 285
50-12-202	enacted	Ch. 153	HB 285
50-12-203	enacted	Ch. 153	HB 285
50-12-204	enacted	Ch. 153	HB 285
50-12-205	enacted	Ch. 153	HB 285
50-16-522	amended	Ch. 235	HB 303
50-16-525	amended	Ch. 235	HB 303
50-16-804	amended	Ch. 235	HB 303
50-16-805	amended	Ch. 235	HB 303
50-16-811	amended	Ch. 164	SB 81
50-17-102	amended	Ch. 400	SB 205
50-17-201	enacted	Ch. 400	SB 205
50-17-202	enacted	Ch. 400	SB 205
50-17-203	enacted	Ch. 400	SB 205
50-20-509	amended	Ch. 358	HB 77
50-21-101	amended	Ch. 318	SB 321
50-21-102	amended	Ch. 318	SB 321
50-21-103	amended	Ch. 318	SB 321
50-32-601	enacted	Ch. 253	HB 333
50-32-602	enacted	Ch. 253	HB 333
50-32-603	enacted	Ch. 253	HB 333
50-32-604	enacted	Ch. 253	HB 333

50-32-605	enacted	Ch. 253	HB 333
50-32-606	enacted	Ch. 253	HB 333
50-32-607	enacted	Ch. 253	HB 333
50-32-608	enacted	Ch. 253	HB 333
50-32-609	enacted	Ch. 253	HB 333
50-32-610	enacted	Ch. 253	HB 333
50-32-611	enacted	Ch. 253	HB 333
50-46-302	amended	Ch. 408	SB 333
50-46-303	amended	Ch. 408	SB 333
50-46-307	amended	Ch. 408	SB 333
50-46-308	amended	Ch. 408	SB 333
50-46-311	amended	Ch. 408	SB 333
50-46-312	amended	Ch. 408	SB 333
50-46-319	amended	Ch. 408	SB 333
50-46-320	amended	Ch. 408	SB 333
50-46-326	enacted	Ch. 408	SB 333
50-46-327	amended	Ch. 408	SB 333
50-46-328	amended	Ch. 408	SB 333
50-46-329	amended	Ch. 408	SB 333
50-46-330	amended	Ch. 408	SB 333
50-46-343	amended	Ch. 408	SB 333
50-46-344	amended	Ch. 408	SB 333
50-46-345	amended	Ch. 408	SB 333
50-50-103	amended	Ch. 28	HB 166
50-50-126	enacted	Ch. 28	HB 166
50-50-205	amended	Ch. 305	SB 254
50-60-102	amended	Ch. 11	SB 33
52-3-115	amended	Ch. 375	HB 638
53-1-202	amended	Ch. 384	HB 650
53-1-203	amended	Ch. 179	SB 65
	amended	Ch. 199	SB 60
	amended	Ch. 321	HB 133
	amended	Ch. 335	HB 600
amended (void--sec. 13, Ch. 390)	Ch. 391	SB 63	
53-1-211	enacted	Ch. 390	SB 59
53-1-703	amended	Ch. 81	SB 4
53-1-704	repealed	Ch. 81	SB 4
53-1-710	amended	Ch. 81	SB 4
53-1-711	amended	Ch. 81	SB 4
53-1-714	repealed	Ch. 81	SB 4
53-2-215	amended	Ch. 442	SB 233
53-2-216	repealed	Ch. 151	HB 137
53-2-217	repealed	Ch. 151	HB 137
53-2-1202	amended	Ch. 37	HB 125
53-2-1203	amended	Ch. 37	HB 125
53-2-1204	repealed	Ch. 37	HB 125
53-2-1205	amended	Ch. 37	HB 125
53-2-1206	amended	Ch. 37	HB 125
53-2-1207	amended	Ch. 37	HB 125
53-2-1215	amended	Ch. 25	HB 88
53-2-1216	amended	Ch. 25	HB 88
53-2-1217	amended	Ch. 25	HB 88
53-2-1218	amended	Ch. 25	HB 88
53-2-1219	amended	Ch. 25	HB 88
53-4-1004	amended	Ch. 151	HB 137
53-4-1005	amended	Ch. 399	SB 199

53-4-1103	amended	Ch. 399	SB 199
53-6-101	amended	Ch. 395	SB 160
	amended	Ch. 398	SB 198
	amended	Ch. 399	SB 199
53-6-111	amended	Ch. 82	SB 82
53-6-113	amended	Ch. 442	SB 233
53-6-125	amended	Ch. 364	HB 639
53-6-148	enacted	Ch. 364	HB 639
53-6-402	amended	Ch. 442	SB 233
53-6-1005	amended	Ch. 81	SB 4
53-6-1201	amended	Ch. 77	HB 304
	amended	Ch. 151	HB 137
	amended	Ch. 233	HB 118
53-6-1401	enacted	Ch. 82	SB 82
53-6-1402	enacted	Ch. 82	SB 82
53-6-1403	enacted	Ch. 82	SB 82
53-6-1404	enacted	Ch. 82	SB 82
53-6-1405	enacted	Ch. 82	SB 82
53-6-1406	enacted	Ch. 82	SB 82
53-6-1407	enacted	Ch. 82	SB 82
53-6-1408	enacted	Ch. 82	SB 82
53-6-1409	enacted	Ch. 82	SB 82
53-6-1410	enacted	Ch. 82	SB 82
53-9-104	amended	Ch. 358	HB 77
53-10-201	repealed	Ch. 81	SB 4
53-10-202	repealed	Ch. 81	SB 4
53-10-203	repealed	Ch. 81	SB 4
53-10-204	repealed	Ch. 81	SB 4
53-10-211	repealed	Ch. 81	SB 4
53-10-212	repealed	Ch. 81	SB 4
53-20-112	amended	Ch. 358	HB 77
53-20-126	amended	Ch. 258	HB 387
53-20-203	amended	Ch. 265	HB 458
53-20-224	enacted	Ch. 265	HB 458
53-20-225	enacted	Ch. 265	HB 458
53-20-601	enacted	Ch. 258	HB 387
53-20-602	enacted	Ch. 258	HB 387
53-20-603	enacted	Ch. 258	HB 387
53-20-604	enacted	Ch. 258	HB 387
53-21-102	amended	Ch. 133	HB 220
53-21-112	amended	Ch. 358	HB 77
53-21-116	amended	Ch. 358	HB 77
53-21-122	amended	Ch. 358	HB 77
	amended	Ch. 402	SB 272
53-21-123	amended	Ch. 402	SB 272
53-21-127	amended	Ch. 402	SB 272
53-21-163	amended	Ch. 207	HB 495
53-21-181	amended	Ch. 207	HB 495
	amended	Ch. 402	SB 272
53-21-183	amended	Ch. 207	HB 495
53-21-198	amended	Ch. 402	SB 272
53-21-508	enacted	Ch. 334	HB 589
53-21-1002	amended	Ch. 81	SB 4
53-21-1101	amended	Ch. 233	HB 118
53-21-1111	enacted	Ch. 233	HB 118
53-21-1202	amended	Ch. 219	HB 328

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53-21-1203	amended	Ch. 219	HB 328
53-21-1204	amended	Ch. 219	HB 328
53-24-204	amended	Ch. 107	HB 95
53-24-208	amended	Ch. 107	HB 95
53-24-302	amended	Ch. 358	HB 77
53-30-134	amended	Ch. 384	HB 650
53-30-153	enacted	Ch. 262	HB 426
53-30-401	repealed	Ch. 384	HB 650
53-30-402	repealed	Ch. 384	HB 650
53-30-403	repealed	Ch. 384	HB 650
53-30-507	amended	Ch. 384	HB 650
60-1-223	enacted	Ch. 124	HB 509
60-1-224	enacted	Ch. 192	SB 231
60-2-111	amended	Ch. 54	HB 92
60-2-112	amended	Ch. 54	HB 92
60-2-119	enacted	Ch. 54	HB 92
60-2-225	enacted	Ch. 267	HB 473
60-2-245	enacted	Ch. 100	SB 182
60-3-201	amended	Ch. 267	HB 473
	amended	Ch. 384	HB 650
60-3-202	repealed	Ch. 267	HB 473
60-3-301	amended	Ch. 250	HB 225
60-3-302	amended	Ch. 250	HB 225
60-3-303	amended	Ch. 250	HB 225
60-3-304	amended	Ch. 250	HB 225
60-3-308	enacted	Ch. 250	HB 225
60-3-309	enacted	Ch. 250	HB 225
60-4-401	amended	Ch. 203	HB 374
60-4-402	amended	Ch. 203	HB 374
60-5-110	amended	Ch. 267	HB 473
61-1-101	amended	Ch. 323	HB 144
	amended	Ch. 435	SB 336
61-3-111	enacted	Ch. 384	HB 650
61-3-112	enacted	Ch. 384	HB 650
61-3-118	amended	Ch. 384	HB 650
61-3-203	amended	Ch. 323	HB 144
61-3-224	amended	Ch. 384	HB 650
	amended	Ch. 435	SB 336
61-3-301	amended	Ch. 110	HB 213
61-3-303	amended	Ch. 323	HB 144
	amended	Ch. 435	SB 336
61-3-317	amended	Ch. 435	SB 336
61-3-321	amended	Ch. 250	HB 225
	amended	Ch. 323	HB 144
	amended	Ch. 351	HB 648
	amended	Ch. 384	HB 650
	amended	Ch. 414	SB 57
61-3-332	amended	Ch. 275	SB 21
61-3-509	amended	Ch. 250	HB 225
61-3-701	amended	Ch. 323	HB 144
61-3-738	amended	Ch. 267	HB 473
61-4-101	amended	Ch. 323	HB 144
61-4-111	amended	Ch. 435	SB 336
61-4-120	amended	Ch. 323	HB 144
61-4-124	amended	Ch. 323	HB 144
61-4-125	amended	Ch. 323	HB 144

61-4-127	amended	Ch. 323	HB 144
61-4-128	amended	Ch. 323	HB 144
61-4-131	amended	Ch. 93	SB 108
	amended	Ch. 323	HB 144
61-4-141	repealed	Ch. 93	SB 108
61-4-207	amended	Ch. 92	SB 89
61-4-208	amended	Ch. 93	SB 108
61-5-102	amended	Ch. 321	HB 133
61-5-104	amended	Ch. 330	HB 485
61-5-106	amended	Ch. 323	HB 144
61-5-107	amended	Ch. 323	HB 144
61-5-108	amended	Ch. 323	HB 144
61-5-112	amended	Ch. 302	SB 241
61-5-114	amended	Ch. 323	HB 144
61-5-118	amended	Ch. 302	SB 241
61-5-122	amended	Ch. 323	HB 144
61-5-123	amended	Ch. 432	SB 311
61-5-125	amended	Ch. 323	HB 144
61-5-127	amended	Ch. 24	HB 87
61-5-128	amended	Ch. 443	SB 366
61-5-129	enacted	Ch. 443	SB 366
61-5-132	amended	Ch. 323	HB 144
61-5-206	amended	Ch. 323	HB 144
61-5-208	amended	Ch. 321	HB 133
61-5-212	amended	Ch. 321	HB 133
	amended (void--sec. 2, Ch. 415)	Ch. 415	SB 90
61-6-158	amended	Ch. 323	HB 144
	amended	Ch. 384	HB 650
61-6-302	amended	Ch. 321	HB 133
61-6-304	amended	Ch. 321	HB 133
61-8-204	amended	Ch. 267	HB 473
61-8-301	amended	Ch. 426	SB 196
61-8-303	amended	Ch. 125	HB 471
61-8-314	amended	Ch. 426	SB 196
61-8-321	amended	Ch. 236	HB 415
61-8-347	amended	Ch. 323	HB 144
61-8-357	amended	Ch. 50	HB 241
61-8-359	amended	Ch. 434	SB 314
61-8-370	amended	Ch. 426	SB 196
61-8-407	amended	Ch. 321	HB 133
61-8-422	amended	Ch. 321	HB 133
61-8-465	amended	Ch. 323	HB 144
61-8-607	amended	Ch. 275	SB 21
61-8-731	amended	Ch. 321	HB 133
61-8-732	amended	Ch. 321	HB 133
61-8-812	amended	Ch. 323	HB 144
61-8-907	amended	Ch. 267	HB 473
61-9-101	amended	Ch. 434	SB 314
61-9-109	amended	Ch. 434	SB 314
61-10-104	amended	Ch. 68	HB 41
61-10-126	amended	Ch. 267	HB 473
61-10-225	amended	Ch. 267	HB 473
61-10-226	amended	Ch. 267	HB 473
61-11-102	amended	Ch. 323	HB 144
61-11-204	amended	Ch. 323	HB 144
69-1-224	amended	Ch. 350	HB 642

69-3-306	amended	Ch. 248	HB 219
69-3-308	amended	Ch. 387	SB 363
69-3-2009	repealed	Ch. 114	HB 20
69-3-2010	repealed	Ch. 114	HB 20
69-4-501	amended	Ch. 326	HB 365
69-4-502	amended	Ch. 326	HB 365
69-4-503	amended	Ch. 326	HB 365
69-4-504	amended	Ch. 326	HB 365
69-4-505	repealed	Ch. 326	HB 365
69-4-508	amended	Ch. 326	HB 365
69-4-512	amended	Ch. 326	HB 365
69-4-513	repealed	Ch. 326	HB 365
69-4-514	repealed	Ch. 326	HB 365
69-4-520	enacted	Ch. 326	HB 365
69-4-521	enacted	Ch. 326	HB 365
69-4-522	enacted	Ch. 326	HB 365
69-4-523	enacted	Ch. 326	HB 365
69-4-524	enacted	Ch. 326	HB 365
69-4-525	enacted	Ch. 326	HB 365
69-4-526	enacted	Ch. 326	HB 365
69-4-527	enacted	Ch. 326	HB 365
69-4-528	enacted	Ch. 326	HB 365
69-4-529	enacted	Ch. 326	HB 365
69-4-530	enacted	Ch. 326	HB 365
69-5-121	amended	Ch. 440	SB 374
69-5-122	amended	Ch. 440	SB 374
69-5-123	enacted	Ch. 440	SB 374
69-5-201	enacted	Ch. 161	HB 297
69-5-202	enacted	Ch. 161	HB 297
69-8-210	amended	Ch. 359	HB 193
69-8-402	amended	Ch. 275	SB 21
69-8-412	amended	Ch. 275	SB 21
69-8-420	amended	Ch. 422	SB 168
69-8-602	amended	Ch. 248	HB 219
69-8-603	amended	Ch. 248	HB 219
69-8-604	amended	Ch. 410	SB 11
69-8-610	enacted	Ch. 248	HB 219
69-8-611	enacted	Ch. 248	HB 219
69-8-612	enacted	Ch. 248	HB 219
69-13-106	enacted	Ch. 296	SB 207
70-6-420	repealed	Ch. 222	HB 402
70-6-601	enacted	Ch. 222	HB 402
70-6-602	enacted	Ch. 222	HB 402
70-6-603	enacted	Ch. 222	HB 402
70-6-604	enacted	Ch. 222	HB 402
70-6-605	enacted	Ch. 222	HB 402
70-6-606	enacted	Ch. 222	HB 402
70-6-607	enacted	Ch. 222	HB 402
70-6-608	enacted	Ch. 222	HB 402
70-6-609	enacted	Ch. 222	HB 402
70-23-102	amended	Ch. 214	HB 200
70-24-108	amended	Ch. 290	SB 144
70-24-201	amended	Ch. 155	HB 350
70-24-202	amended	Ch. 290	SB 144
70-24-204	amended	Ch. 220	HB 349
70-24-205	amended	Ch. 155	HB 350

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70-33-201	amended	Ch. 155	HB 350
70-33-203	amended	Ch. 220	HB 349
71-3-1113	amended	Ch. 314	SB 291
72-2-814	amended	Ch. 228	HB 537
72-5-225	amended	Ch. 358	HB 77
72-5-234	amended	Ch. 358	HB 77
72-5-315	amended	Ch. 358	HB 77
72-5-408	amended	Ch. 358	HB 77
72-31-401	enacted	Ch. 286	SB 118
72-31-402	enacted	Ch. 286	SB 118
72-31-403	enacted	Ch. 286	SB 118
72-31-404	enacted	Ch. 286	SB 118
72-31-405	enacted	Ch. 286	SB 118
72-31-406	enacted	Ch. 286	SB 118
72-31-407	enacted	Ch. 286	SB 118
72-31-408	enacted	Ch. 286	SB 118
72-31-409	enacted	Ch. 286	SB 118
72-31-410	enacted	Ch. 286	SB 118
72-31-411	enacted	Ch. 286	SB 118
72-31-412	enacted	Ch. 286	SB 118
72-31-413	enacted	Ch. 286	SB 118
72-31-414	enacted	Ch. 286	SB 118
72-31-415	enacted	Ch. 286	SB 118
72-31-416	enacted	Ch. 286	SB 118
72-31-417	enacted	Ch. 286	SB 118
75-1-208	amended	Ch. 344	HB 507
75-1-1001	amended	Ch. 320	SB 339
75-5-201	amended	Ch. 327	HB 368
75-5-411	enacted	Ch. 327	HB 368
75-5-605	amended	Ch. 327	HB 368
75-8-101	enacted	Ch. 320	SB 339
75-8-102	enacted	Ch. 320	SB 339
75-8-103	enacted	Ch. 320	SB 339
75-8-104	enacted	Ch. 320	SB 339
75-8-105	enacted	Ch. 320	SB 339
75-8-106	enacted	Ch. 320	SB 339
75-8-107	enacted	Ch. 320	SB 339
75-8-108	enacted	Ch. 320	SB 339
75-8-109	enacted	Ch. 320	SB 339
75-10-521	amended	Ch. 88	HB 152
75-10-704	amended	Ch. 317	SB 315
	amended	Ch. 320	SB 339
75-10-743	amended	Ch. 351	HB 648
75-10-1601	enacted	Ch. 317	SB 315
75-10-1602	enacted	Ch. 317	SB 315
75-10-1603	enacted	Ch. 317	SB 315
75-10-1604	enacted	Ch. 317	SB 315
75-11-301	amended	Ch. 267	HB 473
75-20-216	amended	Ch. 280	SB 42
75-20-219	amended	Ch. 280	SB 42
75-20-302	amended	Ch. 280	SB 42
	amended	Ch. 296	SB 207
75-20-303	amended	Ch. 280	SB 42
75-26-301	enacted	Ch. 247	HB 216
75-26-304	enacted	Ch. 247	HB 216
75-26-308	enacted	Ch. 247	HB 216

75-26-309	enacted	Ch. 247	HB 216
75-26-310	enacted	Ch. 247	HB 216
76-3-102	amended	Ch. 363	HB 445
76-3-103	amended	Ch. 363	HB 445
76-3-201	amended	Ch. 169	SB 219
76-3-603	amended	Ch. 362	HB 416
76-3-608	amended	Ch. 362	HB 416
76-3-611	amended	Ch. 251	HB 245
76-3-617	enacted	Ch. 363	HB 445
76-3-622	amended	Ch. 344	HB 507
76-3-625	amended	Ch. 362	HB 416
76-4-102	amended	Ch. 261	HB 407
76-4-104	amended	Ch. 261	HB 407
	amended	Ch. 344	HB 507
76-4-111	amended	Ch. 62	HB 300
76-4-114	enacted	Ch. 344	HB 507
76-4-115	enacted	Ch. 344	HB 507
76-4-116	enacted	Ch. 344	HB 507
76-4-121	amended	Ch. 344	HB 507
76-4-122	amended	Ch. 344	HB 507
76-4-125	amended	Ch. 224	HB 456
	amended	Ch. 344	HB 507
76-4-127	amended	Ch. 344	HB 507
	amended	Ch. 371	HB 510
76-6-109	amended	Ch. 255	HB 373
76-8-101	amended	Ch. 363	HB 445
76-13-104	amended	Ch. 437	SB 342
76-13-150	amended	Ch. 115	HB 3
	amended (see sec. 29, 30, Ch. 429)	Ch. 237	SB 281
	amended (see sec. 29, 30, Ch. 429)	Ch. 429	SB 261
76-13-151	enacted	Ch. 437	SB 342
76-13-214	enacted	Ch. 274	HB 644
76-15-106	enacted	Ch. 351	HB 648
76-15-323	repealed	Ch. 65	SB 39
76-15-517	repealed	Ch. 71	HB 53
76-15-527	amended	Ch. 71	HB 53
76-17-101	enacted	Ch. 374	HB 597
76-17-102	enacted	Ch. 374	HB 597
76-17-103	enacted	Ch. 374	HB 597
76-17-104	enacted	Ch. 374	HB 597
76-22-104	amended	Ch. 311	SB 284
76-22-109	amended	Ch. 360	HB 228
76-22-110	amended	Ch. 311	SB 284
76-22-111	amended	Ch. 311	SB 284
77-1-125	amended	Ch. 275	SB 21
77-1-130	amended	Ch. 411	SB 15
77-1-501	repealed	Ch. 144	HB 316
77-1-502	repealed	Ch. 144	HB 316
77-1-503	repealed	Ch. 144	HB 316
77-1-504	repealed	Ch. 144	HB 316
77-1-902	amended	Ch. 412	SB 24
77-1-905	amended	Ch. 412	SB 24
77-2-318	amended	Ch. 184	SB 224
77-5-201	amended	Ch. 116	HB 38
80-1-104	amended	Ch. 408	SB 333
80-3-303	amended	Ch. 44	HB 91

80-3-314	amended	Ch. 339	HB 131
80-5-120	amended	Ch. 420	SB 155
80-5-131	amended	Ch. 339	HB 131
80-5-136	amended	Ch. 420	SB 155
80-7-105	amended	Ch. 389	SB 55
80-7-106	amended	Ch. 389	SB 55
80-7-108	amended	Ch. 389	SB 55
80-7-109	amended	Ch. 389	SB 55
80-7-110	amended	Ch. 389	SB 55
80-7-122	repealed	Ch. 389	SB 55
80-7-123	amended	Ch. 389	SB 55
80-7-133	amended	Ch. 389	SB 55
80-7-135	amended	Ch. 389	SB 55
80-7-1003	amended	Ch. 348	HB 622
80-7-1004	amended	Ch. 387	SB 363
80-7-1006	amended	Ch. 387	SB 363
80-7-1007	amended	Ch. 275	SB 21
	amended	Ch. 348	HB 622
80-7-1008	amended	Ch. 348	HB 622
80-7-1010	amended	Ch. 387	SB 363
80-7-1011	amended	Ch. 348	HB 622
80-7-1014	amended	Ch. 348	HB 622
80-7-1015	amended	Ch. 348	HB 622
80-7-1016	amended	Ch. 387	SB 363
80-7-1017	amended	Ch. 387	SB 363
80-7-1018	amended	Ch. 387	SB 363
80-7-1025	enacted	Ch. 348	HB 622
80-7-1026	enacted	Ch. 348	HB 622
80-7-1027	enacted	Ch. 348	HB 622
80-7-1101	amended	Ch. 43	HB 82
80-7-1103	repealed	Ch. 43	HB 82
80-7-1104	repealed	Ch. 43	HB 82
80-7-1105	repealed	Ch. 43	HB 82
80-7-1107	repealed	Ch. 43	HB 82
80-7-1201	enacted	Ch. 348	HB 622
80-7-1203	enacted	Ch. 348	HB 622
80-8-102	amended	Ch. 244	HB 126
80-8-107	amended	Ch. 244	HB 126
80-8-111	amended	Ch. 244	HB 126
80-8-201	amended	Ch. 244	HB 126
80-8-203	amended	Ch. 244	HB 126
80-8-207	amended	Ch. 244	HB 126
80-8-209	amended	Ch. 244	HB 126
80-8-213	amended	Ch. 244	HB 126
80-8-214	repealed 10/1/2019	Ch. 244	HB 126
80-8-302	amended	Ch. 244	HB 126
80-8-303	amended	Ch. 244	HB 126
80-8-401	amended	Ch. 244	HB 126
80-8-404	amended	Ch. 244	HB 126
80-9-101	amended	Ch. 46	HB 130
80-9-201	amended	Ch. 46	HB 130
80-9-206	amended	Ch. 46	HB 130
	amended	Ch. 339	HB 131
80-9-302	amended	Ch. 46	HB 130
80-10-101	amended	Ch. 339	HB 131
80-10-201	amended	Ch. 339	HB 131

80-10-202	amended	Ch. 339	HB 131
80-10-203	amended	Ch. 339	HB 131
80-10-204	amended	Ch. 339	HB 131
80-10-207	amended	Ch. 339	HB 131
80-10-303	amended	Ch. 339	HB 131
80-11-1001	enacted	Ch. 312	SB 285
80-11-1002	enacted	Ch. 312	SB 285
80-11-1003	enacted	Ch. 312	SB 285
80-11-1004	enacted	Ch. 312	SB 285
80-11-1005	enacted	Ch. 312	SB 285
80-11-1006	enacted	Ch. 312	SB 285
80-11-1007	enacted	Ch. 312	SB 285
80-11-1008	enacted	Ch. 312	SB 285
80-15-302	amended	Ch. 244	HB 126
81-1-110	amended	Ch. 76	HB 286
81-1-113	amended	Ch. 284	SB 73
81-2-102	amended	Ch. 351	HB 648
81-2-116	enacted	Ch. 351	HB 648
81-3-203	amended	Ch. 120	HB 338
81-3-211	amended	Ch. 120	HB 338
81-4-101	amended	Ch. 135	HB 256
81-7-201	amended	Ch. 78	HB 305
81-7-202	repealed	Ch. 78	HB 305
81-7-204	amended	Ch. 78	HB 305
81-7-303	amended	Ch. 78	HB 305
81-7-603	amended	Ch. 78	HB 305
81-22-101	amended	Ch. 159	SB 157
81-23-202	amended	Ch. 79	HB 377
82-10-601	enacted	Ch. 316	SB 299
82-10-602	enacted	Ch. 316	SB 299
82-10-603	enacted	Ch. 316	SB 299
82-10-604	enacted	Ch. 316	SB 299
82-11-117	amended	Ch. 316	SB 299
82-15-103	amended	Ch. 15	SB 101
82-15-121	repealed	Ch. 15	SB 101
82-15-122	repealed	Ch. 15	SB 101
85-1-601	amended	Ch. 341	HB 424
85-1-602	amended	Ch. 341	HB 424
85-1-614	amended	Ch. 341	HB 424
85-1-615	amended	Ch. 351	HB 648
85-2-102	amended	Ch. 69	HB 48
85-2-113	amended	Ch. 264	HB 429
85-2-221	amended	Ch. 338	HB 110
85-2-222	amended	Ch. 338	HB 110
85-2-225	amended	Ch. 338	HB 110
85-2-231	amended	Ch. 338	HB 110
85-2-232	amended	Ch. 338	HB 110
85-2-233	amended	Ch. 338	HB 110
85-2-234	amended	Ch. 338	HB 110
85-2-306	amended	Ch. 243	HB 99
	amended	Ch. 264	HB 429
85-2-311	amended	Ch. 243	HB 99
85-2-316	amended	Ch. 121	HB 337
85-2-320	amended	Ch. 243	HB 99
85-2-330	amended	Ch. 264	HB 429
85-2-341	amended	Ch. 264	HB 429

85-2-343	amended	Ch. 264	HB 429
85-2-344	amended	Ch. 264	HB 429
85-2-360	amended	Ch. 243	HB 99
85-2-402	amended	Ch. 243	HB 99
85-2-407	amended	Ch. 243	HB 99
85-2-408	amended	Ch. 243	HB 99
85-2-424	amended	Ch. 70	HB 49
85-2-1001	enacted	Ch. 361	HB 360
85-5-101	amended	Ch. 212	HB 140
85-5-111	amended	Ch. 118	HB 124
85-7-1411	amended	Ch. 275	SB 21
85-7-1702	amended	Ch. 242	HB 83
85-7-1710	amended	Ch. 145	HB 388
85-7-2136	amended	Ch. 67	HB 18
85-7-2152	amended	Ch. 67	HB 18
85-7-2155	amended	Ch. 67	HB 18
85-7-2156	amended	Ch. 67	HB 18
85-7-2157	amended	Ch. 67	HB 18
85-7-2158	amended	Ch. 67	HB 18
85-7-2159	amended	Ch. 67	HB 18
85-7-2162	amended	Ch. 67	HB 18
85-7-2163	amended	Ch. 67	HB 18
85-8-601	amended	Ch. 67	HB 18
85-20-1504	amended	Ch. 209	SB 287
87-1-201	amended	Ch. 109	HB 211
87-1-217	amended	Ch. 76	HB 286
87-1-263	enacted	Ch. 188	HB 311
87-1-267	amended	Ch. 211	HB 97
87-1-301	amended	Ch. 349	HB 623
87-1-303	amended	Ch. 349	HB 623
87-1-304	amended	Ch. 349	HB 623
87-2-102	amended	Ch. 41	HB 150
87-2-105	amended	Ch. 41	HB 150
	amended	Ch. 427	SB 218
87-2-113	amended	Ch. 349	HB 623
87-2-117	enacted	Ch. 349	HB 623
87-2-119	enacted	Ch. 75	SB 50
87-2-130	enacted	Ch. 387	SB 363
87-2-511	amended	Ch. 287	SB 119
87-2-514	amended	Ch. 287	SB 119
	amended	Ch. 387	SB 363
87-2-522	amended	Ch. 287	SB 119
87-2-525	amended	Ch. 287	SB 119
87-2-526	amended	Ch. 287	SB 119
87-2-702	amended	Ch. 186	HB 128
87-2-711	amended	Ch. 387	SB 363
87-2-732	enacted	Ch. 196	HB 108
87-2-810	amended	Ch. 427	SB 218
87-2-816	amended	Ch. 387	SB 363
87-2-817	amended	Ch. 387	SB 363
87-2-903	amended	Ch. 374	HB 597
	amended	Ch. 387	SB 363
87-3-235	amended	Ch. 111	HB 214
87-4-601	amended	Ch. 34	SB 84
87-5-801	enacted	Ch. 342	HB 434
87-5-802	enacted	Ch. 342	HB 434

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87-5-803	enacted	Ch. 342	HB 434
87-5-804	enacted	Ch. 342	HB 434
87-5-805	enacted	Ch. 342	HB 434
87-5-806	enacted	Ch. 342	HB 434
87-5-807	enacted	Ch. 342	HB 434
87-5-808	enacted	Ch. 342	HB 434
87-6-216	amended	Ch. 417	SB 111
87-6-221	enacted	Ch. 423	SB 173
87-6-401	amended	Ch. 66	SB 52
87-6-403	amended	Ch. 128	SB 91
87-6-405	amended	Ch. 128	SB 91
87-6-411	amended	Ch. 75	SB 50
87-6-412	amended	Ch. 75	SB 50
87-6-420	enacted	Ch. 293	SB 187
90-1-132	amended	Ch. 405	SB 309
90-1-135	amended	Ch. 405	SB 309
90-4-402	amended	Ch. 176	SB 164
90-4-403	amended	Ch. 176	SB 164
90-6-104	amended	Ch. 51	HB 26
90-6-604	amended	Ch. 431	SB 303
90-6-801	repealed	Ch. 404	SB 307
90-6-802	repealed	Ch. 404	SB 307
90-6-803	repealed	Ch. 404	SB 307
90-6-809	repealed	Ch. 404	SB 307
90-6-810	repealed	Ch. 404	SB 307
90-6-811	repealed	Ch. 404	SB 307
90-6-812	repealed	Ch. 404	SB 307
90-6-818	repealed	Ch. 404	SB 307
90-6-819	repealed	Ch. 404	SB 307
90-6-1001	amended	Ch. 351	HB 648
90-9-104	enacted	Ch. 351	HB 648

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§ 1(2)(c)	Effective when the Department of Administration certifies to the code commissioner that either or both contingencies in section 3 have occurred.	
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Ch. 386.....	SB 317.....	10/01/2017
Ch. 387 §§ 1-6 and 8-21	SB 363.....	05/15/2017
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§§ 6(1)-(5), 7, 9 (2nd version) (1)(a), (1)(b)(iii), (2)-(8), 10 (2nd version), 13(1), (2)(a), (3)-(6), 14 (2nd version), and 17		06/30/2017
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Ch. 440.....	SB 374	05/22/2017
Ch. 441.....	SB 94	10/01/2017
Ch. 442.....	SB 233	07/01/2017
Ch. 443.....	SB 366	If before January 1, 2018, the state of Montana receives an extension from compli- ance with the REAL ID Act of 2005, Public Law 109-13, from the Department of Homeland Security, this act is effective January 1, 2019, else the effective date is January 1, 2018
Ch. 444.....	SB 132	10/01/2017
Ch. 445 §§ 1, 3, and 4	SB 166	07/01/2017
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?	Ch. 238	SB 352
	(Effective upon approval by the electorate)	
?	Ch. 248	HB 219
	(§§ 5, 6, 9(2), 10(2), and 12, Effective on the date that the Public Service Commission issues an order making a determination that cust- omer-generators are being served under a separate classi- fication of service.)	

?	Ch. 300	SB 240
		(§ 1(2)(c), Effective when the Department of Administration certifies to the code commissioner that either or both contingencies in section 3 have occurred.)
?	Ch. 408	SB 333
		(§§ 3(4)(b)-(4)(c), 5(5)(a)-(5)(c), 6(6), 8, 9(1)(b)(i), (1)(b)(ii), (1)(c), and 13(2)(b), Effective the date the Department of Public Health and Human Services certifies their ability to carry out the requirements of sections 3(4)(b)-(4)(c), 5(5)(a)-(5)(c), 6(6), 8, 9(1)(b)(i), 9(1)(b)(ii), 9(1)(c), and 13(2)(b); or April 30, 2018 whichever is earlier)
?	Ch. 416	SB 95
?	Ch. 443	SB 366
		(If before January 1, 2018, the state of Montana receives an extension from compliance with the REAL ID Act of 2005, Public Law 109-13, from the Department of Homeland Security, this act is effective January 1, 2019, else the effec- tive date is January 1, 2018)

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Ch.	Sec.	MCA	Ch.	Sec.	MCA	Ch.	Sec.	MCA
1	1	20-9-471		2	39-51-2410		15	35-12-1313
	2	20-9-503	11	1	50-60-102		16	Codification
	3	Effective date	12	1	37-68-102			instruction
2	1	23-4-106		2	37-68-103	24	1	3-15-402
	2	Effective date		3	Effective date		2	3-15-403
3	1	2-15-1736		4	Applicability		3	61-5-127
	2	Effective date	13	1	Sec. 20, Ch.	25	1	53-2-1215
4	1	5-5-223			241, L. 2011		2	53-2-1216
	2	5-5-227		2	Sec. 2, Ch.		3	53-2-1217
	3	Effective date			357, L. 2015		4	53-2-1218
5	1	32-11-306		3	Effective date		5	53-2-1219
6	1	15-30-3302	14	1	15-18-212		6	Effective date
	2	Effective date	15	1	82-15-103	26	1	15-8-111
	3	Retroactive applicability		2	Repealer		2	Effective date
			16	1	Appropriation	27	1	37-51-204
7	1	15-6-301		2	Sec. 1, Ch. 1,		2	37-51-302
	2	15-6-302			L. 2015		3	37-51-308
	3	15-6-305		3	Effective date		4	37-51-309
	4	15-6-311	17	1	10-1-104		5	37-51-313
	5	15-7-102		2	Applicability		6	37-51-321
8	1	20-7-1404	18	1	10-1-112		7	37-51-603
	2	Notification to tribal governments		2	Codification instruction		8	37-51-605
				3	Effective date		9	Repealer
	3	Effective date	19	1	2-15-1758	28	10	Effective date
9	1	33-2-2101		2	Effective date		1	50-50-126
	2	33-2-2102	20	1	15-7-102		2	7-21-4202
	3	33-2-2103		2	15-15-102		3	50-2-116
	4	33-2-2104		3	Effective date		4	50-50-103
	5	33-2-2105	21	1	15-30-2504		5	Codification instruction
	6	33-2-2106		2	15-30-2507		6	Effective date
	7	33-2-2107		3	15-30-2544	29	1	7-1-4121
	8	33-2-2108		4	Effective date		2	7-1-4149
	9	33-2-2109		5	Retroactive applicability		3	Repealer
	10	33-1-409				30	1	Repealer
	11	33-2-1104	22	1	7-15-4291	31	1	2-15-3111
	12	33-2-1105		2	Applicability	32	1	17-7-502
	13	33-2-1111	23	1	30-13-204		2	Repealer
	14	33-2-1113		2	30-13-213		3	Effective date
	15	33-2-1115		3	35-1-113	33	1	37-7-101
	16	33-2-1216		4	35-1-1039		2	37-7-201
	17	33-2-1902		5	35-2-833		3	37-7-601
	18	33-2-1903		6	35-6-104		4	37-7-602
	19	33-2-1904		7	35-7-110		5	37-7-603
	20	33-2-1907		8	35-8-914		6	37-7-604
	21	33-2-1910		9	35-8-208		7	37-7-605
	22	Codification instruction		10	35-8-913		8	37-7-606
				11	35-8-1001		9	37-7-609
	23	Severability		12	35-8-1012		10	37-7-610
	24	Effective dates		13	35-10-721		11	37-7-611
10	1	39-51-2404		14	35-12-1201		12	37-7-612

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	13	Codification instruction	46	1	80-9-101	59	1	37-2-302
				2	80-9-201		2	Effective date
	14	Severability		3	80-9-206	60	1	7-32-2255
34	1	87-4-601		4	80-9-302		2	Codification instruction
35	1	47-1-126	47	1	20-9-306			
	2	Codification instruction		2	Notification to tribal governments	61	1	46-18-201
	3	Effective date				62	1	76-4-111
	4	Termination		3	Effective date	63	1	13-1-101
36	1	37-11-316		4	Applicability		2	13-37-226
	2	37-11-312	48	1	13-37-226	64	1	19-18-503
	3	37-11-307	49	1	44-7-110		2	19-18-504
	4	Codification instruction		2	Codification instruction		3	Effective date
37	1	2-18-1203		3	Notification to tribal governments	65	1	Repealer
	2	39-51-2116				66	2	Effective date
	3	39-51-2602					2	Effective date
	4	53-2-1202	50	1	61-8-357	67	1	15-16-101
	5	53-2-1203		2	Effective date		2	15-16-102
	6	53-2-1205	51	1	90-6-104		3	15-16-701
	7	53-2-1206		2	Effective date		4	15-17-121
	8	53-2-1207		3	Termination		5	15-17-122
	9	Repealer	52	1	41-3-422		6	15-17-123
	10	Effective date		2	41-3-425		7	15-17-124
38	1	33-17-238		3	Effective date		8	15-17-131
	2	33-17-231	53	1	10-1-408		9	15-17-212
	3	33-17-236	54	1	60-2-119			(renumbered 15-17-125)
	4	Codification instruction		2	18-2-501			
				3	60-2-111		10	15-17-317
	5	Effective date		4	60-2-112		11	15-17-318
39	1	19-20-101		5	Codification instruction		12	15-17-320
	2	19-20-305					13	15-17-323
	3	19-20-401		6	Termination		14	15-17-324
	4	19-20-403	55	1	17-7-502		15	15-17-325
	5	19-20-805		2	37-54-113		16	15-17-326
	6	19-20-905		3	37-54-102		17	15-18-111
	7	19-20-1002		4	37-54-105		18	15-18-112
	8	Repealer		5	37-54-112		19	15-18-113
	9	Effective date		6	37-54-503		20	15-18-114
40	1	19-21-201		7	37-54-511		21	15-18-211
	2	Effective date		8	Codification instruction		22	15-18-212
41	1	87-2-102					23	15-18-213
	2	87-2-105		9	Saving clause		24	15-18-214
	3	Effective date		10	Severability		25	15-18-215
42	1	37-7-502		11	Effective date		26	15-18-216
	2	37-7-504		12	Termination		27	15-18-217
	3	37-7-505	56	1	41-5-216		28	15-18-218
43	1	80-7-1101		2	41-5-220		29	15-18-411
	2	Repealer		3	41-5-1524		30	15-18-412
44	1	80-3-303		4	Effective date		31	15-18-413
	2	Saving clause	57	1	1-1-527		32	39-3-501
	3	Severability		2	Codification instruction		33	85-7-2136
45	1	41-5-215					34	85-7-2152
	2	41-5-216	58	1	37-7-105		35	85-7-2155
	3	45-5-624		2	Effective date		36	85-7-2156

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	37	85-7-2157	80	1	2-4-311	2	37-15-303
	38	85-7-2158		2	2-4-312	3	37-15-307
	39	85-7-2159		3	2-4-313	4	Effective date
	40	85-7-2162		4	Effective date	91	1 15-36-304
	41	85-7-2163	81	1	40-5-906	2	Effective date
	42	85-8-601		2	50-4-803	3	Applicability
	43	Repealer		3	50-4-805	92	1 61-4-207
	44	Directions		4	53-1-703	2	Effective date
		to code		5	53-1-710	93	1 30-14-2502
		commissioner		6	53-1-711	2	61-4-131
	45	Effective date		7	53-6-1005	3	61-4-208
	46	Applicability		8	53-21-1002	4	Repealer
68	1	61-10-104		9	Repealer	5	Effective date
	2	Effective date		10	Effective date	94	1 33-22-138
69	1	85-2-102	82	1	53-6-1401	2	Effective date
70	1	85-2-424		2	53-6-1402	95	1 7-33-4510
71	1	76-15-527		3	53-6-1403	2	7-34-103
	2	Repealer		4	53-6-1404	3	39-71-118
	3	Effective date		5	53-6-1405	96	1 45-10-107
72	1	15-30-2629		6	53-6-1406	2	Effective date
	2	Effective date		7	53-6-1407	97	1 7-5-2122
73	1	Tax levy for		8	53-6-1408	2	Effective date
		university		9	53-6-1409	98	1 2-15-1757
		system		10	53-6-1410	2	Effective date
	2	Codification		11	53-6-111	99	1 41-3-205
		instruction		12	Codification	2	Effective date
	3	Effective date			instruction	100	1 60-2-245
	4	Termination		13	Effective date	2	Codification
	5	Submission to		14	Applicability		instruction
		electorate	83	1	Sec. 27, I.M.	3	Effective date
74	1	20-15-101			No. 182,	4	Applicability
	2	Effective date			approved	101	1 32-5-103
75	1	87-2-119			11/8/2016	2	Effective date
	2	87-6-411		2	Effective date	102	1 15-1-211
	3	87-6-412	84	1	30-10-340	2	15-2-302
	4	Codification		2	30-10-341	3	Saving clause
		instruction		3	30-10-342	4	Applicability
	5	Effective date		4	30-10-119	103	1 27-1-714
76	1	2-15-3110		5	30-10-103	2	Applicability
	2	2-15-3111		6	30-10-1003	104	1 44-7-210
	3	2-15-3112		7	Codification	2	44-4-311
	4	2-15-3113			instruction	3	45-5-206
	5	81-1-110		8	Effective date	4	Codification
	6	87-1-217	85	1	20-4-501		instruction
77	1	10-2-417		2	20-4-503	105	1 20-25-428
	2	16-11-119		3	20-4-505	2	Notification
	3	17-7-502		4	20-4-506		to tribal
	4	53-6-1201	86	1	46-5-502		governments
	5	Effective date		2	46-5-510	106	1 10-2-801
78	1	81-7-201	87	1	Repealer	2	10-2-802
	2	81-7-204		2	Effective date	3	10-2-803
	3	81-7-303	88	1	75-10-521	4	10-2-804
	4	81-7-603		2	Effective date	5	10-2-805
	5	Repealer	89	1	39-71-117	6	10-2-806
79	1	81-23-202	90	1	37-15-301	7	10-2-807

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8	1-1-522	117	1	47-1-205	2	Two-thirds
9	17-7-502			(void-- sec. 2,		vote required
10	Repealer			Ch. 117)	134	1 45-5-625
11	Codification	2		Coordination	2	Applicability
	instruction			instruction	135	1 81-4-101
	Effective dates	3		Effective date	136	1 33-22-170
107	1 53-24-204	118	1	85-5-111	2	33-22-172
	2 53-24-208	119	1	15-24-921	3	33-22-174
	3 Effective date	120	1	81-3-203	4	Codification
108	1 17-5-205		2	81-3-211		instruction
	2 Effective date	121	1	85-2-316	5	Effective date
109	1 87-1-201	122	1	10-3-1304		-- applicability
110	1 61-3-301		2	17-7-502		date
111	1 87-3-235		3	Effective date	137	1 27-1-752
	2 Effective date		4	Termination	2	Effective date
112	1 10-2-111	123	1	5-5-215	138	1 2-3-211
113	1 23-4-105		2	Effective date	139	1 Sec. 6, Ch. 346,
	2 23-4-302	124	1	60-1-223		L. 2013
	3 23-4-304		2	Codification	2	Sec. 3, Ch. 392,
	4 Effective date			instruction		L. 2015
114	1 Repealer	3		Effective date	140	1 7-12-2102
	2 Effective date	125	1	61-8-303	2	7-12-2105
	3 Retroactive	126	1	2-4-702	3	7-12-2109
	applicability		2	3-7-223	4	7-12-2113
115	1 Time limits		3	3-7-224	141	1 3-1-702
	2 Appropriations		4	3-7-225	2	41-3-302
	3 Recommen-		5	Applicability	3	41-3-302
	dations		6	Termination	4	41-3-305
	to reduce	127	1	37-38-101	5	Sec. 7, Ch. 376,
	expenditures		2	37-38-102		L. 2015
	4 10-3-312		3	37-38-201	6	Effective dates
	5 76-13-150		4	37-38-202	7	Termination
	6 Reductions to		5	37-38-106	142	1 Repealer
	general fund		6	Codification	143	1 County
	appropriations			instruction		commission
	for fiscal year	128	1	87-6-403		authority to
	2017		2	87-6-405		correct certain
	7 Sec. 2, Ch. 353,		3	Effective date		election results
	L. 2015	129	1	50-5-701	2	Effective date
	8 Sec. 3, Ch. 359,		2	50-5-702	3	Termination
	L. 2015		3	50-5-703	144	1 15-1-121
	9 Sec. 22,		4	50-5-704	2	Repealer
	Ch. 368,		5	50-5-705	145	1 85-7-1710
	L. 2015		6	50-5-706	2	One-time
	10 Sec. 1, Ch. 371,		7	50-5-707		notification
	L. 2015		8	Two-thirds		requirement
	11 Sec. 4, Ch. 376,			vote required	3	Effective date
	L. 2015		9	Codification	146	1 20-31-402
	12 Sec. 3, Ch. 386,			instruction	2	Effective date
	L. 2015	130	1	35-18-317	147	1 18-2-501
	13 Effective date		2	Effective date	2	Effective date
	14 Termination	131	1	41-3-443	148	1 22-3-429
116	1 77-5-201		2	41-3-604	2	Notification
	2 Effective date	132	1	41-3-112		to tribal
		133	1	53-21-102		governments

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149	1	20-1-301	49	35-2-720	3	Codification
	2	Effective date	50	35-2-721		instruction
	3	Applicability	51	45-6-301	4	Effective date
150	1	19-20-101	52	53-4-1004	162	1 37-50-101
	2	20-4-134	53	53-6-1201	2	37-50-301
	3	Effective date	54	Repealer	3	37-50-325
	4	Applicability	55	Sec. 16,	4	37-50-330
151	1	33-28-111		Ch. 58, L. 2011	5	37-50-335
	2	15-30-2110	56	Codification	6	Effective date
	3	15-30-2618		instruction	163	1 3-1-702
	4	15-31-511	57	Severability	164	1 50-16-811
	5	30-10-104	58	Effective dates	165	1 19-20-302
	6	30-10-115	152	1 15-30-2110	2	Effective date
	7	30-10-209	2	15-61-102	166	1 2-2-106
	8	33-1-502	3	15-61-202	167	1 5-5-232
	9	33-2-1304	4	15-61-203	2	5-5-202
	10	33-2-1363	5	15-61-204	3	5-5-211
	11	33-3-453	6	Applicability	4	5-5-224
	12	33-3-601	153	1 50-12-201	5	Notification
	13	33-3-602	2	50-12-202		to tribal
	14	33-3-603	3	50-12-203		governments
	15	33-4-103	4	50-12-204	6	Codification
	16	33-4-204	5	50-12-205		instruction
	17	33-17-102	6	Codification	7	Effective date
	18	33-17-243		instruction	168	1 13-14-115
	19	33-17-301	7	Direction to	2	13-14-117
	20	33-18-301		department	169	1 76-3-201
	21	33-18-609		-- appointment	2	Effective date
	22	33-19-105		of advisory	170	1 46-8-113
	23	33-19-202		council	2	Effective date
	24	33-22-157	8	Effective date	3	Applicability
	25	33-22-301	154	1 20-5-426	171	1 45-8-321
	26	33-22-906	2	Codification	2	Effective date
	27	33-22-1815		instruction	172	1 13-10-202
	28	33-22-1816	3	Two-thirds	2	13-10-404
	29	33-28-101		vote required	3	13-10-405
	30	33-28-105	4	Effective date	173	1 2-15-504
	31	33-28-109	155	1 70-24-201	2	7-4-2718
	32	33-28-306	2	70-24-205	3	2-7-517
	33	33-30-102	3	70-33-201	4	15-1-121
	34	33-31-111	4	Effective date	5	15-36-331
	35	33-31-211	5	Applicability	6	15-36-332
	36	33-31-212	156	1 37-3-305	7	15-37-117
	37	33-31-401	2	Effective date	8	15-39-110
	38	33-32-102	157	1 7-15-4221	9	20-9-310
	39	33-32-103	2	7-15-4282	10	Codification
	40	33-32-403	3	Effective date		instruction
	41	33-32-410	158	1 37-17-104	11	Effective date
	42	33-32-412	2	37-37-102	174	1 7-5-4410
	43	33-32-417	159	1 81-22-101	2	7-4-4101
	44	33-32-423	160	1 7-15-4286	3	7-4-4102
	45	35-1-217	2	Effective date	4	7-4-4103
	46	35-1-931	3	Applicability	5	Codification
	47	35-1-932	161	1 69-5-201		instruction
	48	35-2-119	2	69-5-202	6	Effective date

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175	1	2-18-101		2	Codification	27	19-8-1202
	2	2-18-601			instruction	28	19-9-112
	3	2-18-701		3	Effective date	29	19-9-1204
	4	2-18-703	189	1	25-31-601	30	19-9-1207
	5	2-18-812		2	25-35-505	31	19-9-1301
	6	Effective dates		3	35-8-301	32	19-9-1302
	7	Retroactive		4	Effective date	33	19-9-1303
		applicability	190	1	20-7-1315	34	19-13-104
176	1	90-4-402		2	Codification	35	19-13-212
	2	90-4-403			instruction	36	19-13-302
	3	Effective date		3	Effective date	37	19-13-1101
	4	Applicability	191	1	15-23-401	38	19-13-1102
177	1	33-20-309		2	15-23-403	39	19-17-112
	2	33-20-905		3	Effective date	40	19-17-407
	3	Codification	192	1	60-1-224	41	19-17-412
		instruction		2	Codification	42	19-17-502
	4	Applicability			instruction	43	19-17-503
178	1	33-18-210		3	Effective date	44	Repealer
179	1	46-23-1040	193	1	39-71-2211	45	Codification
	2	44-7-120		2	Effective date		instruction
	3	46-23-1041		3	Applicability	46	Effective date
	4	46-23-1002	194	1	44-3-201	196	1 87-2-732
	5	53-1-203		2	44-3-203	2	Notification
	6	Notification		3	44-3-205		to tribal
		to tribal		4	46-4-103		governments
		governments		5	46-4-110	3	Codification
	7	Codification		6	46-4-122		instruction
		instruction		7	Codification	4	Effective date
180	1	41-3-205			instruction	197	1 46-18-1101
	2	41-3-208	195	1	19-2-602	2	Codification
181	1	30-11-814		2	19-2-603		instruction
	2	30-11-914		3	19-2-704	198	1 Sec. 11, Ch.
	3	30-11-809		4	19-2-902		400, L. 2015
	4	30-11-908		5	19-2-903		Effective date
	5	Codification		6	19-2-904	199	1 46-18-111
		instruction		7	19-2-907	2	46-18-112
	6	Applicability		8	19-2-1004	3	46-23-1004
182	1	41-3-445		9	19-3-108	4	53-1-203
183	1	5-11-1101		10	19-3-201	200	1 Appropriation
	2	5-11-1102		11	19-3-403		for
	3	5-11-1111		12	19-3-413		intervention
	4	Effective date		13	19-3-1105		in out-of-state
184	1	77-2-318		14	19-3-1106		energy
	2	Effective date		15	19-3-2141		proceedings
	3	Applicability		16	19-5-502	2	Effective date
185	1	15-30-3313		17	19-6-101	201	1 46-5-111
	2	Effective date		18	19-6-1005	2	46-5-112
	3	Retroactive		19	19-6-1101	3	46-5-113
		applicability		20	19-6-1102	4	Codification
186	1	87-2-702		21	19-7-101		instruction
	2	Effective date		22	19-7-1101	202	1 46-5-117
	3	Termination		23	19-7-1102	2	46-5-118
187	1	23-2-636		24	19-8-101	3	46-5-119
188	1	87-1-263		25	19-8-1003	4	Codification
				26	19-8-1201		instruction

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203	1	60-4-401	2	37-47-201	2	45-8-316
	2	60-4-402	3	37-47-325	231	1 2-18-715
204	1	17-7-304	4	37-47-404		20-25-1315
	2	Effective date	5	Repealer		33-2-2301
205	1	20-6-326	218	1 20-7-1311	2	2-18-716
	2	20-9-502	2	Implementation		20-25-1316
		(replaced--sec. 13, Ch. 404)	3	Codification		33-2-2302
	3	20-9-630	4	instruction	3	2-18-717
	4	Effective date	219	1 53-21-1202		20-25-1317
206	1	33-22-111	2	53-21-1203	4	33-2-2303
	2	33-30-1020	3	53-21-1204		2-18-718
	3	Codification	4	Effective date		20-25-1318
		instruction	220	1 70-24-204	5	33-2-2304
	4	Effective date	2	70-33-203		2-18-719
207	1	53-21-163	3	Effective date		20-25-1319
	2	53-21-181	4	Applicability	6	33-2-2305
	3	53-21-183	221	1 20-10-101		2-18-720
208	1	41-5-1513	2	20-10-103		20-25-1320
	2	Applicability	3	20-10-141	7	33-2-2306
209	1	85-20-1504	4	20-10-148	8	20-25-1403
	2	Transfer of	5	Codification	9	33-30-102
		funds		instruction	10	33-31-111
	3	Contingent	6	Effective date	11	33-35-306
		effective date	222	1 70-6-601		Codification
210	1	33-2-2201	2	70-6-602	12	instruction
	2	33-2-2202	3	70-6-603	13	Severability
	3	33-2-2207	4	70-6-604	14	Effective date
	4	33-2-2203	5	70-6-605	232	Applicability
	5	33-2-2208	6	70-6-606	1	20-9-537
	6	33-2-2206	7	70-6-607	2	20-9-537
	7	33-2-2211	8	70-6-608	3	Sec. 7, Ch. 410, L. 2013
	8	33-2-2212	9	70-6-609	4	Sec. 3, Ch. 426, L. 2015
	9	33-2-2213	10	Repealer	5	Sec. 7, Ch. 426, L. 2015
	10	33-1-102	11	Codification	6	Appropriation
	11	50-6-320		instruction	7	Notification
	12	Codification	223	1 7-33-2208		to tribal
		instruction	224	1 76-4-125		governments
	13	Severability	2	Effective date	7	Coordination
	14	Effective date	3	Applicability		instruction
		-- applicability	225	1 37-3-102	8	Effective date
211	1	87-1-267	2	37-3-104	9	Termination
	2	Effective date	226	1 45-5-507	233	1 53-21-1101
212	1	85-5-101	2	Applicability	2	53-21-1111
213	1	Sec. 5, Ch. 442, L. 2009	227	1 7-33-2120	3	53-6-1201
	2	Effective date	228	1 7-33-2401	4	Appropriations
214	1	70-23-102	229	1 72-2-814		-- reporting
	2	Effective date	2	2-1-315		requirements
215	1	2-2-145		Notification	5	Notification
	2	Codification		to tribal		to tribal
		instruction	3	governments		governments
216	1	20-5-210		Codification	6	Codification
	2	Effective date	4	instruction		instruction
217	1	37-47-101	230	1 45-8-315		

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	7	Coordination instruction		2	Effective date (amended--sec. 11, Ch. 429)	10	80-8-303
	8	Effective date				11	80-8-401
234	1	20-26-621	241	1	3-1-710	12	80-8-404
	2	20-26-622		2	3-1-711	13	80-15-302
	3	20-26-623		3	3-1-712	14	Repealer
	4	Notification to tribal governments		4	Appropriation	15	Saving clause
				5	Appropriation	16	Severability
				6	Codification instruction	17	Effective dates
	5	Codification instruction				245	1 2-18-704
				7	Effective date	2	33-22-701
	6	Effective date		8	Termination	3	33-22-702
235	1	2-15-2019	242	1	7-3-103	4	33-22-703
	2	41-3-123		2	7-3-149	5	33-22-705
	3	41-3-201		3	7-5-132	6	33-22-710
	4	41-3-205		4	7-6-1504	7	33-31-111
	5	44-5-303		5	7-13-2212	8	33-35-306
	6	50-16-522		6	13-1-101	9	Repealer
	7	50-16-525		7	13-1-403	10	Codification instruction
	8	50-16-804		8	13-1-404		
	9	50-16-805		9	13-1-502	246	11 Effective date
	10	Codification instruction		10	13-2-301	1	46-5-601
				11	13-3-213	2	46-5-602
	11	Effective date -- applicability		12	13-10-211	3	46-5-605
				13	13-13-205	4	46-5-606
	12	Termination		14	13-13-222	5	46-5-607
236	1	61-8-321		15	20-3-313	6	46-5-612
237	1	76-13-150		16	20-20-204	7	46-5-613
		(contingently replaced--sec. 29, 30, Ch. 429)		17	85-7-1702	8	46-5-614
				18	Transition -- special purpose	9	Codification instruction
238		Not codified - referendum			district officers -- terms of office -- retroactive applicability	247	1 75-26-301
	1	Short title				2	75-26-304
	2	Definitions				3	75-26-308
	3	Ballot collection				4	75-26-309
		prohibited -- exceptions	243	19	Effective date	5	75-26-310
				1	85-2-306	6	17-7-502
				2	85-2-311	7	Notification to tribal governments
	4	Record of delivery		3	85-2-320	8	Codification instruction
				4	85-2-360	9	Saving clause
	5	Penalty		5	85-2-402	10	Effective date
	6	Codification instruction		6	85-2-407	248	1 69-8-610
				7	85-2-408	2	69-8-611
	7	Effective date		8	Termination	3	69-8-612
	8	Submission to electorate	244	1	80-8-102	4	69-3-306
				2	80-8-107	5	69-8-602
239	1	Time limits		3	80-8-111	6	69-8-603
	2	Appropriations		4	80-8-201	7	Codification instruction
	3	Effective date		5	80-8-203		
240	1	Appropriation -- report (amended--sec. 11, Ch. 429)		6	80-8-207	8	Coordination instruction
				7	80-8-209		
				8	80-8-213	9	Coordination instruction
				9	80-8-302		

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	10	Coordination instruction		4	Effective date		6	Termination
			255	1	7-8-2201	260	1	37-31-304
	11	Coordination instruction		2	7-8-2211		2	37-31-311
				3	7-8-2212	261	1	76-4-102
	12	Coordination instruction		4	7-8-2213		2	76-4-104
				5	7-8-2216	262	1	53-30-153
	13	Effective date		6	7-8-2217		2	Codification
		-- contingency		7	7-8-2231			instruction
		-- contingent		8	7-8-2301		3	Severability
		voidness		9	7-8-2519		4	Effective date
249	1	15-6-203		10	7-8-2520	263	1	16-4-105
	2	Effective date		11	7-8-2521		2	Effective date
	3	Retroactive applicability		12	7-8-2522	264	1	85-2-113
				13	7-8-2501		2	85-2-306
250	1	60-3-308		14	7-8-2513		3	85-2-330
	2	60-3-309		15	7-8-2515		4	85-2-341
	3	17-7-502		16	76-6-109		5	85-2-343
	4	60-3-301		17	Repealer		6	85-2-344
	5	60-3-302		18	Codification	265	1	53-20-224
	6	60-3-303			instruction		2	53-20-225
	7	60-3-304	256	1	20-7-1310		3	53-20-203
	8	61-3-321		2	Two-thirds		4	Codification
	9	61-3-509			vote required			instruction
	10	Codification		3	Effective date		5	Applicability
		instruction	257	1	37-11-101	266	1	15-70-430
	11	Effective date	258	1	53-20-601		2	Effective date
251	1	76-3-611		2	53-20-602	267	1	15-70-126
252	1	13-2-220		3	53-20-603		2	15-70-127
	2	13-13-212		4	53-20-604		3	15-70-130
253	1	50-32-601		5	53-20-126		4	Audit of
	2	50-32-602		6	Sec. 1, Ch.			department of
	3	50-32-603			444, L. 2015			transportation
	4	50-32-604		7	Sec. 3, Ch.		5	60-2-225
	5	50-32-605			444, L. 2015		6	15-70-101
	6	50-32-606		8	Direction to		7	15-70-102
	7	50-32-607			department of		8	15-70-403
	8	50-32-608			public health			(replaced--
	9	50-32-609			and human			sec. 30, Ch.
	10	50-32-610			services			384)
	11	50-32-611			concerning		9	15-70-404
	12	37-2-104			closure of		10	15-70-419
	13	45-5-626			Montana		11	15-70-456
	14	45-9-102			developmental		12	17-5-903
	15	45-9-107			center		13	17-7-502
	16	45-10-103		9	Repealer		14	44-1-501
	17	Codification		10	Appropriation			(void-- sec. 32,
		instruction		11	Codification			Ch. 384)
	18	Two-thirds			instruction		15	60-3-201
		vote required		12	Effective date			(replaced--
	19	Effective date	259	1	20-9-314			sec. 33, Ch.
254	1	Transfer		2	20-9-534			384)
	2	Appropriation		3	Coordination		16	60-5-110
	3	Notification			instruction		17	61-3-738
		to tribal		4	Effective date		18	61-8-204
		governments		5	Applicability		19	61-8-907

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	20	61-10-126	5	15-6-301		2	46-1-1204
	21	61-10-225	6	15-6-302	283	1	17-3-211
	22	61-10-226	7	15-6-311		2	17-3-212
	23	75-11-301	8	15-7-102		3	17-3-213
	24	Repealer	9	15-70-412		4	Effective date
	25	Appropriation	10	20-7-102	284	1	2-15-3114
	26	Implementation	11	20-7-1404		2	15-24-925
	27	Codification	12	20-9-306		3	17-7-502
		instruction	13	32-9-169		4	81-1-113
	28	Effective date	14	33-2-1112		5	Sec. 13,
268	1	15-1-601	15	45-8-340			Ch. 339,
	2	15-30-3302	16	46-23-509			L. 2011
	3	15-31-301	17	61-3-332	6		Sec. 8, Ch.
	4	15-31-302	18	61-8-607			349, L. 2015
	5	15-31-303	19	69-8-402		7	Effective date
	6	15-31-304	20	69-8-412		8	Termination
	7	15-31-305	21	77-1-125	285	1	50-5-1301
	8	15-31-306	22	80-7-1007		2	50-5-1302
	9	15-31-307	23	85-7-1411		3	50-5-1303
	10	15-31-308	24	Directions		4	50-5-1304
	11	15-31-309		to code		5	50-5-1305
	12	15-31-310		commissioner		6	50-5-1306
	13	15-31-311	276	1 23-5-112		7	50-5-1307
	14	15-31-312		2 23-5-413		8	50-5-1308
	15	Effective date		3 23-5-622		9	Codification
	16	Applicability		4 23-5-629			instruction
269	1	15-16-506		5 Severability		10	Effective date
	2	Codification	277	1 45-5-503	286	1	72-31-401
		instruction		2 46-18-231		2	72-31-402
	3	Effective date		3 46-23-502		3	72-31-403
	4	Applicability		4 Applicability		4	72-31-404
270	1	41-3-122	278	1 2-7-503		5	72-31-405
	2	Codification		2 7-15-4221		6	72-31-406
		instruction		3 7-15-4236		7	72-31-407
271	1	16-1-406		4 7-15-4237		8	72-31-408
	2	16-3-213		5 7-15-4279		9	72-31-409
	3	16-4-501	279	1 45-5-508		10	72-31-410
272	1	15-6-301		2 45-5-501		11	72-31-411
	2	15-6-312		3 45-5-503		12	72-31-412
	3	Codification		4 46-18-219		13	72-31-413
		instruction		5 46-18-222		14	72-31-414
	4	Effective date		6 46-23-502		15	72-31-415
273	1	23-5-503		7 Codification		16	72-31-416
	2	Notification		instruction		17	72-31-417
		to tribal		Applicability		18	Codification
		governments	280	1 75-20-216			instruction
	3	Effective date		2 75-20-219		19	Severability
274	1	76-13-214		3 75-20-302		20	Retroactive
	2	7-1-111		4 75-20-303			applicability
	3	Codification	281	1 17-7-201	287	1	87-2-511
		instruction		2 17-7-202		2	87-2-514
275	1	1-5-603		3 Coordination		3	87-2-522
	2	1-5-610		instruction		4	87-2-525
	3	1-5-622		Effective date		5	87-2-526
	4	7-6-2527	282	1 46-1-1104		6	Effective date

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288	1	37-4-401	4	Effective dates	9	80-11-1008
	2	37-4-405	5	Retroactive	10	17-7-502
	3	Effective date		applicability	11	Appropriation
289	1	15-30-2609	301	1	12	Transition
	2	15-31-509		2		-- direction to
	3	Effective date		3		governor and
	4	Retroactive	302	1		department
		applicability		2		13
290	1	70-24-108	303	1		Codification
	2	70-24-202		2		instruction
	3	Applicability			14	Effective date
291	1	1-1-231		3	313	1
	2	Notification				2
		to tribal			314	1
		governments	304	1		2
		Codification		2		Coordination
	3	instruction		3		instruction
		Repealer		4		Effective date
292	1	87-6-420		5		3
293	1	Codification				315
	2	instruction				1
	3	Effective date	305	1		30-14-2601
			306	1		30-14-2602
294	1	20-7-1316		2		50-6-306
	2	Codification		3		3
		instruction		4		Codification
295	1	7-8-105				instruction
	2	44-14-101		5		Effective date
	3	46-5-307		6		4
	4	Codification				5
		instruction				Retroactive
	5	Effective date	307	1		applicability
296	1	69-13-106		2		82-10-601
	2	75-20-302		3		2
	3	Codification		4		82-10-602
		instruction				82-10-603
	4	Effective date	308	1		3
	5	Applicability		2		82-10-604
297	1	23-2-409		3		4
	2	Effective date				Board to
298	1	25-13-603	309	1		amend rules
	2	15-61-202		2		5
	3	25-13-608	310	1		82-11-117
	4	31-2-106		2		6
	5	Codification				Codification
		instruction	311	1		instruction
299	1	20-10-145		2		9
	2	Effective date		3		Effective date
300	1	5-2-303	312	1	318	1
	2	Requirement		2		50-21-101
		to inform		3		2
		Montana's		4		50-21-102
		congressional		5		3
		delegation		6		50-21-103
	3	Contingent		7	319	1
		effectiveness		8		39-2-710
						2
						Codification
						instruction
						Effective date
					320	1
						75-8-101
						2
						75-8-102
						3
						75-8-103
						4
						75-8-104

5	75-8-105	37	61-8-422	6	Codification
6	75-8-106	38	61-8-731		instruction
7	75-8-107	39	61-8-732	7	Effective date
8	75-8-108	40	Repealer	325 1	Appropriation
9	75-8-109	41	Codification	2	Effective date
10	75-1-1001		instruction	326 1	69-4-520
11	75-10-704	42	Coordination	2	69-4-521
12	Notification		instruction	3	69-4-522
	to tribal	43	Effective date	4	69-4-523
	governments	44	Applicability	5	69-4-524
13	Codification	322 1	2-15-121	6	69-4-525
	instruction	2	37-1-121	7	69-4-526
14	Coordination	3	37-1-131	8	69-4-527
	instruction	4	37-1-122	9	69-4-528
15	Saving clause	5	37-1-108	10	69-4-529
16	Severability	6	Codification	11	69-4-530
17	Effective date		instruction	12	17-7-502
18	Retroactive	7	Effective date	13	69-4-501
	applicability	8	Termination	14	69-4-502
321 1	41-5-206	323 1	49-4-304	15	69-4-503
2	44-5-202	2	61-1-101	16	69-4-504
3	45-2-101	3	61-3-203	17	69-4-508
4	45-5-207	4	61-3-303	18	69-4-512
5	45-5-214	5	61-3-321	19	Repealer
6	45-5-503	6	61-3-701	20	Notification
7	45-5-507	7	61-4-101		to tribal
8	45-5-625	8	61-4-120		governments
9	45-6-301	9	61-4-124	21	Codification
10	45-6-309	10	61-4-125		instruction
11	45-6-316	11	61-4-127	22	Saving clause
12	45-6-317	12	61-4-128	23	Severability
13	45-6-325	13	61-4-131	24	Effective date
14	45-6-332	14	61-5-106	25	Applicability
15	45-6-345	15	61-5-107	327 1	75-5-411
16	45-8-101	16	61-5-108	2	75-5-201
17	45-8-102	17	61-5-114	3	75-5-605
18	45-8-111	18	61-5-122	4	Codification
19	45-9-101	19	61-5-125		instruction
20	45-9-102	20	61-5-132	5	Coordination
21	45-9-103	21	61-5-206		instruction
22	45-9-110	22	61-6-158	328 1	15-10-420
23	46-1-202	23	61-8-347	2	19-7-403
24	46-18-201	24	61-8-465	3	19-7-404
25	46-18-204	25	61-8-812	4	Effective date
26	46-18-205	26	61-11-102	329 1	39-71-123
27	46-18-222	27	61-11-204	330 1	61-5-104
28	46-18-231	28	Notification	331 1	20-7-1301
29	46-18-502		to tribal	2	20-7-1302
30	53-1-203		governments	3	20-7-1303
31	61-5-102	29	Effective dates	4	Effective date
32	61-5-208	324 1	33-20-807	--	applicability
33	61-5-212	2	33-20-141	332 1	15-1-121
34	61-6-302	3	33-20-802	2	15-1-123
35	61-6-304	4	33-20-804	3	20-9-630
36	61-8-407	5	33-20-805	4	Effective date

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333	1	15-44-106	337	1	20-9-410	7	76-4-121
	2	15-6-134		2	Effective date	8	76-4-122
	3	Codification	338	1	3-7-212	9	76-4-125
		instruction		2	85-2-221	10	76-4-127
	4	Effective date		3	85-2-222	11	Codification
	5	Retroactive		4	85-2-225		instruction
		applicability		5	85-2-231	12	Applicability
334	1	53-21-508		6	85-2-232	13	Termination
	2	Appropriation		7	85-2-233	345	1 50-5-247
	3	Codification		8	85-2-234	2	50-5-101
		instruction		9	Effective date	3	Codification
	4	Effective date		10	Applicability		instruction
335	1	46-24-301	339	1	80-3-314	346	1 44-4-1601
	2	46-24-302		2	80-5-131	2	44-4-1602
	3	46-24-307		3	80-9-206	3	44-4-1603
	4	53-1-203		4	80-10-101	4	44-4-1604
	5	Codification		5	80-10-201	5	44-4-1605
		instruction		6	80-10-202	6	44-4-1606
	6	Effective date		7	80-10-203	7	44-4-1607
	7	Applicability		8	80-10-204	8	44-4-1608
336	1	17-7-502		9	80-10-207	9	44-4-1609
	2	20-7-102		10	80-10-303	10	Notification
	3	20-7-306		11	Saving clause		to tribal
	4	20-9-141		12	Severability		governments
	5	20-9-306		13	Effective date	11	Codification
	6	20-9-310	340	1	Sec. 5, Ch.		instruction
	7	20-9-342			244, L. 2013	12	Saving clause
	8	20-9-344		2	Contingent	13	Severability
	9	20-9-366			voidness	14	Effective date
	10	20-9-517		3	Effective date	347	1 15-60-102
	11	20-9-518	341	1	85-1-601	2	15-60-211
	12	20-9-520		2	85-1-602	3	Appropriation
	13	20-9-622		3	85-1-614	4	Effective date
	14	20-9-630	342	1	87-5-801	348	1 2-15-3309
	15	20-9-632		2	87-5-802	2	2-15-3310
	16	20-15-310		3	87-5-803	3	7-22-2601
	17	Fund transfers		4	87-5-804	4	80-7-1201
	18	20-9-635		5	87-5-805		80-7-1203
	19	20-9-638		6	87-5-806	5	80-7-1025
	20	Sec. 7, Ch.		7	87-5-807	6	80-7-1026
		433, L. 2015		8	87-5-808	7	80-7-1027
	21	Notification		9	Codification	8	80-7-1003
		to tribal			instruction	9	80-7-1007
		governments		10	Effective date	10	80-7-1008
	22	Codification		11	Termination	11	80-7-1011
		instruction	343	1	16-4-314	12	80-7-1014
	23	Coordination		2	Codification	13	80-7-1015
		instruction			instruction	14	Appropriation
	24	Coordination		3	Effective date	15	Notification
		instruction	344	1	76-4-114		to tribal
	25	Coordination		2	76-4-115		governments
		instruction		3	76-4-116	16	Codification
	26	Severability		4	75-1-208		instruction
	27	Effective dates		5	76-3-622	17	Effective dates
	28	Applicability		6	76-4-104	18	Termination

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349	1	87-2-117	353	1	Appropriations for treasure state endowment program grants	354	1	Appropriations for renewable resource grants
	2	87-1-301					2	Coordination of fund sources for grants to political subdivisions and local governments
	3	87-1-303						Conditions of grants
	4	87-1-304					4	Appropriations established
	5	87-2-113					5	Approval of grants -- completion of biennial appropriation
	6	Codification instruction	2		Approval of grants -- completion of biennial appropriation		6	Notification to tribal governments
	7	Effective date					7	Coordination instruction
350	1	Transfers					8	Severability
	2	69-1-224					9	Effective date
	3	Effective date	3		Condition of grants -- disbursements of funds		355	1
351	1	Fund transfers						Appropriations for reclamation and development grants
	2	Fund transfer					2	Coordination of fund sources for grants to political subdivisions and local governments
	3	19-3-320					3	Conditions of grants
	4	81-2-116	4		Other powers and duties of department		4	Other appropriations
	5	22-1-202					5	Approval of grants -- completion of biennial appropriation
	6	76-15-106	5		Appropriations from treasure state endowment state special revenue account for emergency grants		6	Notification to tribal governments
	7	90-9-104					7	Coordination instruction
	8	15-35-108					8	Severability
	9	17-7-502					9	Effective date
	10	61-3-321					355	1
	11	75-10-743						Appropriations for reclamation and development grants
	12	81-2-102					2	Coordination of fund sources for grants to political subdivisions and local governments
	13	85-1-615					3	Conditions of grants
	14	90-6-1001					4	Other appropriations
	15	Sec. 3, Ch. 115, L. 2017	6		Appropriations from treasure state endowment state special revenue account for infrastructure planning grants		5	Approval of grants -- completion of biennial appropriation
	16	Reductions to appropriations for fiscal year 2017 (Ch. 400, L. 2015)					6	Notification to tribal governments
	17	Codification instruction					7	Coordination instruction
	18	Coordination instruction	7		Appropriation from treasure state endowment regional water system special revenue account		8	Severability
	19	Severability					9	Effective date
	20	Effective dates						
	21	Termination						
352	1	Legislative study of state labs at Montana state university-Bozeman	8		Approval of funds -- completion of appropriation			
	2	Fund transfers	9		Conditions -- manner of disbursements of funds			
	3	Appropriation						
	4	Contingent voidness						
	5	Effective dates	10		Notification to tribal governments			
	6	Termination						
			11		Coordination instruction			
			12		Effective date			

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356	1	Appropriation of cultural and aesthetic grant funds -- priority of disbursement	30	47-1-205 (renumbered 47-1-301)	4	76-8-101
			31	47-1-210 (renumbered 47-1-120)	5	Codification instruction
	2	Appropriation of cultural and aesthetic grant funds	32	47-1-215	6	Effective date
			33	47-1-216 (renumbered 47-1-121)	7	Applicability
	3	Reversion of grant money	34	50-20-509	364	1 Medicaid caseload contingent funding -- restrictions
	4	Changes to grants on pro rata basis	35	53-9-104	2	Montana developmental center -- requirements
	5	Effective date	36	53-20-112	3	53-6-148
357	1	3-5-102	37	53-21-112	4	Hospital community benefit assessment
	2	Appointment and election of judges	38	53-21-116	5	17-7-502
			39	53-21-122	6	53-6-125
	3	Contingent voidness	40	53-24-302	7	Codification instruction
			41	72-5-225	8	Coordination instruction
			42	72-5-234	9	Coordination instruction
	4	Effective date	43	72-5-315	10	Coordination instruction
358	1	2-15-1029	44	72-5-408	11	Coordination instruction
	2	2-15-1028	45	Repealer	12	Coordination instruction
	3	2-18-103	46	Transition -- appointment of director of office of state public defender	13	Severability
	4	3-5-511			14	Effective dates
	5	3-5-604			15	Termination
	6	3-5-901	47	Codification instruction -- instructions to code commissioner	365	1 13-4-102
	7	5-5-228			2	13-4-103
	8	17-7-154			3	13-4-107
	9	26-2-506			4	13-13-226
	10	41-5-111			366	1 Short title
	11	41-5-1413	48	Severability	2	First level expenditures
	12	42-2-405	49	Effective dates	3	Severability
	13	46-4-304	359	1 69-8-210	4	Appropriation control
	14	46-8-101	2	Effective date	5	Program definition
	15	46-8-104	360	1 15-1-122	6	Personal services funding -- 2021 biennium
	16	46-15-115	2	17-1-508	7	Legislative intent
	17	46-17-203	3	17-7-502		
	18	46-21-111	4	76-22-109		
	19	46-21-201	5	76-22-109		
	20	47-1-103	6	Sec. 18, Ch. 445, L. 2015		
	21	47-1-104				
	22	47-1-105	7	Effective date		
	23	47-1-110	8	Termination		
	24	47-1-111	361	1 85-2-1001		
	25	47-1-118 (renumbered 47-1-401)	2	Codification instruction		
			362	1 76-3-603		
	26	47-1-119	2	76-3-608		
	27	47-1-125	3	76-3-625		
	28	47-1-201	363	1 76-3-102		
	29	47-1-202	2	76-3-103		
			3	76-3-617		

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367	8	Totals not	14	13-13-245	8	Effective date
		appropriations	15	13-15-105	374 1	76-17-101
	9	Effective dates	16	13-15-107		76-17-102
	10	Appropriation	17	13-15-205	2	76-17-103
	11	Appropriations	18	13-19-303	3	76-17-104
	12	Rates	19	13-19-304	4	15-30-2110
	1	10-4-105	20	13-21-104	5	17-1-508
	2	10-4-106	21	13-21-206	6	17-7-502
	3	10-4-107	22	13-27-103	7	87-2-903
	4	10-4-108	23	13-27-204	8	Codification
	5	10-4-109	24	13-27-205		instruction
	6	10-4-304	25	13-27-206	9	Effective date
	7	10-4-305	26	13-27-207	10	Termination
	8	10-4-306	27	13-27-303	375 1	Appropriation
	9	10-4-307	28	13-27-304		for direct care
	10	10-4-308	29	13-27-308		worker wages
	11	10-4-309	30	13-27-311	2	Appropriation
	12	10-4-314	31	13-27-503		for direct care
	13	10-4-315	32	13-35-207		worker wages
	14	10-4-116	33	Repealer	3	Direct care
	15	10-4-117	34	Effective date		worker wage
	16	10-4-101	369 1	5-12-208		account
	17	10-4-103	2	Codification	4	Contingent
	18	10-4-201		instruction		fund transfer
	19	10-4-204	3	Effective date		to direct care
	20	10-4-301	370 1	2-18-601		worker wage
	21	10-4-302	2	2-18-711		account
	22	10-4-313	3	Effective date	5	Transfer of
	23	17-7-502		-- applicability		funds to direct
	24	Repealer	371 1	76-4-127		care worker
	25	Repealer	2	Effective date		wage account
	26	Transfer of	372 1	7-1-201	6	52-3-115
		funds	2	7-4-2206	7	Coordination
	27	Notification	3	7-5-2309		instruction
		to tribal	4	7-11-1021	8	Coordination
		governments	5	7-11-1029		instruction
	28	Codification	6	7-13-2233	9	Effective date
		instruction	7	7-33-2106	10	Termination
	29	Saving clause	8	13-1-402	376 1	Definitions
	30	Severability	9	13-1-403	2	Capital
368	31	Effective dates	10	13-1-501		projects
	32	Termination	11	13-1-502		appropriations
	1	13-1-101	12	15-17-122		and
	2	13-1-116	13	18-7-411		authorizations
	3	13-1-121	14	18-7-412	3	Capital
	4	13-2-220	15	18-7-413		improvements
	5	13-2-512	16	Effective date	4	Land
	6	13-2-513	373 1	17-6-320		acquisition
	7	13-3-213	2	17-6-302		appropriations
	8	13-4-203	3	17-6-308	5	Planning and
	9	13-10-404	4	17-6-309		design
	10	13-10-602	5	17-6-311	6	Capital
	11	13-13-114	6	17-6-317		projects --
	12	13-13-213	7	Codification		contingent
	13	13-13-241		instruction		funds

377	7	Review by department of environmental quality	7	2-15-2006 (replaced--sec. 8, Ch. 416; renumbered 2-15-2306)	31	Coordination instruction
	8	Legislative consent	8	3-1-318	32	Coordination instruction
	9	Sec. 5, Ch. 324, L. 2011	9	15-70-403 (replaced--sec. 30, Ch. 384)	33	Coordination instruction
	10	Coordination instruction	10	44-1-501	34	Coordination instruction
	11	Severability	11	44-4-313 (renumbered 44-7-204)	35	Coordination instruction
	12	Effective date	12	46-18-201	36	Coordination instruction
	1	20-9-380 (replaced--sec. 3, Ch. 259)	13	53-1-202	37	Saving clause
	2	17-5-703 (replaced--sec. 3, Ch. 259)	14	53-30-134	38	Severability
	3	Codification instruction	15	53-30-507	39	Effective dates
	4	Effective date	16	60-3-201 (replaced--sec. 33, Ch. 384)	1	Appropriation
	1	15-35-108	17	61-3-118	2	Approval of grant
	2	Coordination instruction	18	61-3-224	3	Condition of grants
378	3	Effective date	19	61-3-321 (replaced--sec. 6, Ch. 416)	4	Notification -- reversion of funds
	1	15-24-1402	20	61-6-158	5	Effective date
	2	Applicability	21	Appointment protocols	1	15-1-216
379	1	39-6-109		-- transfer of spending authorization	387	1 87-2-130
	2	15-30-2357	22	Transition -- implementation procedure	2	15-72-601
	3	15-31-173		Appropriation of state special revenue funds	3	15-72-602
380	4	15-30-2618	23	Repealer	4	17-1-106
	5	15-31-511	24	Codification instruction	5	69-3-308
	6	Codification instruction	25	-- directions to code commissioner	6	80-7-1004
381	7	Effective date	26	Coordination instruction	7	80-7-1004
	8	Applicability	27	Coordination instruction	8	80-7-1006
	1	15-30-2318	28	Coordination instruction	9	80-7-1010
382	2	Codification instruction	29	Coordination instruction	10	80-7-1016
	3	Severability	30	Coordination instruction	11	80-7-1017
	4	Applicability			12	80-7-1018
383	1	15-30-2110			13	87-2-514
	2	Applicability			14	87-2-711
	3	15-6-220			15	87-2-816
384	1	Transfers			16	87-2-817
	2	46-4-105			17	87-2-903
	3	61-3-111 (replaced--sec. 26, Ch. 384)			18	Codification instruction
385	4	61-3-112			19	Effective dates
	5	44-1-110			20	Applicability
	6	3-1-707			21	Termination
					388	1 41-3-801
					2	41-3-802
					3	41-3-803
					4	41-3-607
					5	Codification instruction
					389	1 80-7-105
					2	80-7-106

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	3	80-7-108		2	46-23-111		8	33-1-1508
	4	80-7-109			(replaced--sec.		9	33-1-1509
	5	80-7-110			21, Ch. 392)		10	33-1-1510
	6	80-7-123		3	46-23-103		11	33-1-1511
	7	80-7-133		4	46-23-104		12	33-1-1512
	8	80-7-135		5	46-23-110		13	33-1-707
	9	Appropriation		6	46-23-201		14	33-1-1202
	10	Repealer		7	46-23-202		15	33-1-1205
	11	Saving clause		8	46-23-208		16	33-1-1211
	12	Severability		9	46-23-215		17	33-1-1302
	13	Effective date		10	46-23-218		18	33-2-101
390	1	3-1-708		11	46-23-1001		19	33-2-104
	2	44-7-115		12	46-23-1003		20	33-2-308
	3	Montana		13	46-23-1021		21	33-2-1120
		criminal		14	46-23-1023		22	33-2-1310
		justice		15	46-23-1024		23	33-3-304
		oversight		16	46-23-1025		24	33-3-401
		council		17	Board to		25	33-3-424
		-- duties --			review		26	33-17-1004
		membership			administrative		27	33-17-1102
	4	Department			rules -- report		28	33-18-212
		of corrections		18	Repealer		29	33-22-2009
		to report		19	Transition		30	33-23-401
		on criminal		20	Codification		31	45-6-301
		justice			instruction		32	Repealer
		reinvestment		21	Coordination		33	Codification
		legislation			instruction			instruction
		impacts		22	Effective dates		34	Effective date
	5	46-23-1028		23	Applicability		35	Applicability
	6	53-1-211		393	1 40-1-201	397	1	40-5-701
	7	3-1-702	394	1	45-5-215		2	40-5-704
	8	46-9-109		2	40-15-102		3	40-5-710
	9	Repealer		3	40-4-219		4	40-5-711
	10	Appropriation		4	41-3-301		5	Effective date
	11	Notification		5	44-4-311	398	1	53-6-101
		to tribal		6	45-5-206		2	Effective date
		governments		7	45-5-209	399	1	53-4-1005
	12	Codification		8	46-1-502		2	53-4-1103
		instruction		9	46-6-311		3	53-6-101
	13	Coordination		10	46-9-108		4	Effective date
		instruction		11	46-9-302		5	Contingent
	14	Contingent		12	46-16-226			termination
		voidness		13	46-18-219	400	1	50-17-102
	15	Effective dates		14	46-23-502		2	50-17-201
	16	Termination		15	Codification		3	50-17-202
391	1	46-18-203			instruction		4	50-17-203
	2	46-18-208		16	Effective date		5	Codification
	3	46-23-1011	395	1	53-6-101			instruction
	4	46-23-1015	396	1	33-1-1501	401	1	46-11-801
	5	53-1-203		2	33-1-1502		2	Codification
		(void-- sec. 13,		3	33-1-1503			instruction
		Ch. 390)		4	33-1-1504		3	Two-thirds
	6	Effective date		5	33-1-1505			vote required
392	1	2-15-2305		6	33-1-1506		4	Effective date
				7	33-1-1507	402	1	50-5-224

	2	50-5-226	4	50-46-307	416	1	Legislative intent
	3	50-5-227	5	50-46-308		2	2-15-2307
	4	53-21-122	6	50-46-311		3	Transition instructions and reporting
	5	53-21-123	7	50-46-312		4	20-9-640
	6	53-21-127	8	50-46-326		5	Codification instruction
	7	53-21-181	9	50-46-319		6	Coordination instruction
	8	53-21-198	10	50-46-320		7	Coordination instruction
	9	Codification instruction	11	50-46-327		8	Coordination instruction
403	1	23-5-157	12	50-46-328		9	Coordination instruction
404	1	20-9-116	13	50-46-329		10	Coordination instruction
	2	20-6-702	14	50-46-330		11	Coordination instruction
	3	20-9-236	15	50-46-343		12	Coordination instruction
	4	20-9-343	16	50-46-344		13	Coordination instruction
	5	20-9-367	17	50-46-345		14	Coordination instruction
	6	20-9-502	18	15-64-101		15	Coordination instruction
		(replaced--sec. 13, Ch. 404)	19	15-64-102		16	Coordination instruction
	7	20-9-516	20	15-64-103		17	Coordination instruction
	8	20-9-525	21	15-64-104		18	Severability
	9	Repealer	22	15-64-105		19	Effective dates
	10	Repealer	23	15-64-106		20	Termination
	11	Repealer	24	15-64-110		417	1 87-6-216
	12	Codification instruction	25	15-64-111		418	1 2-16-501
	13	Coordination instruction	26	15-64-112		2	2-16-502
	14	Coordination instruction	27	80-1-104		3	5-2-402
	15	Effective dates -- coordination -- retroactive applicability	28	Appropriation		419	1 17-6-302
405	1	2-15-1816	29	Codification instruction		2	17-6-308
	2	15-65-101	30	Severability		3	Effective date
	3	15-65-121	31	Effective dates -- direction to department of public health and human services		420	1 7-1-111
	4	90-1-132	409	1 15-31-119		2	80-5-120
	5	90-1-135	410	2 Applicability		3	80-5-136
	6	Notification to tribal governments	411	1 69-8-604		4	Effective date
			2	Effective date		421	1 20-15-301
	7	Effective date	412	1 77-1-130		2	20-15-327
406	1	2-1-306	2	77-1-902		3	Codification instruction
	2	Notification to tribal government	413	1 77-1-905		4	Effective date
	3	Effective date	414	1 45-1-205		422	1 69-8-420
407	1	15-6-235	2	Applicability		2	Effective date
	2	15-6-201	3	44-1-501		3	Applicability
	3	Codification instruction	2	44-1-504			
	4	Applicability	3	61-3-321			
408	1	41-5-216	4	Coordination instruction			
	2	50-46-302	5	Effective date			
	3	50-46-303	415	1 61-5-212 (void-- sec. 2, Ch. 415)			
			2	Coordination instruction			
			3	Applicability			

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423	1	87-6-221	11	Coordination	17	Coordination
	2	Codification		instruction		instruction --
	3	instruction		-- level 1.5		level 3 budget
		Effective date		budget		reduction
424	1	7-11-1008		reduction --		-- reduction in
425	1	2-15-1741		House Bill No.		appropriation
	2	37-17-401		17		-- Montana
	3	37-17-402	12	Coordination		state library
	4	37-17-403		instruction		commission
	5	37-17-404		-- level 2 budget	18	Coordination
	6	37-17-405		reduction --		instruction --
	7	37-17-406		across-the-		level 3 budget
	8	Codification		board		reduction
		instruction		reduction in		-- reduction in
426	1	61-8-301		general fund		appropriation
	2	61-8-314		appropriations		-- Montana
	3	61-8-370	13	Coordination		historical
427	1	87-2-105		instruction --		society --
	2	87-2-810		level 2 budget		increase in
	3	Effective date		reduction --		state special
428	1	46-5-222		reduction in		revenue fund
	2	Effective date		state fund		authority
429	1	17-7-130		claims	19	Coordination
	2	17-7-102		administration		instruction --
	3	17-7-111	14	Coordination		level 3 budget
	4	17-7-131		instruction --		reduction --
	5	17-7-140		level 2 budget		fund transfer
	6	76-13-150		reduction		from lodging
		(contingently		-- HELP Act		facility use tax
		replaced--sec.		third-party		account
		29, 30, Ch.		administrator	20	Coordination
		429)	15	Coordination		instruction --
	7	Levels 1		instruction --		level 3 budget
		through		level 3 budget		reduction
		4 budget		reduction		-- reduction in
		reductions		-- reduction in		appropriation
		-- contingent		appropriation		-- department
		fund transfer		-- governor's		of agriculture
		from fire		office	21	Coordination
		suppression	16	Coordination		instruction --
		account		instruction --		level 3 budget
	8	Legislative		level 3 budget		reduction
		intent		reduction		-- reduction in
	9	Codification		-- reduction in		appropriation
		instruction		appropriation		-- department
	10	State treasurer		-- legislative		of public
		notification		branch		health and
		for budget				human
		reductions and				services
		fund transfers				

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	3	53-6-402		5	Legislative		2	Repealer
	4	ARM 37.34.907			intent		3	Codification
	5	ARM 37.40.1002		6	Codification			instruction
	6	ARM 37.40.1111			instruction		4	Effective dates
	7	ARM 37.86.5102		7	Contingent	446	1	25-9-205
	8	Implementation			voidness		2	27-1-210
	9	Effective date		8	Contingent		3	Saving clause
443	1	61-5-129			voidness		4	Severability
	2	17-5-2001		9	Effective date		5	Effective date
	3	61-5-128			-- contingency		6	Applicability
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<u>Constitutional Initiative</u>			<u>Initiative</u>		
<u>CI</u>	<u>Sec.</u>	<u>MCA</u>	<u>Init.</u>	<u>Sec.</u>	<u>MCA</u>
116	1	Art. II, sec. 36, Mont. Const.	182	1	45-9-203
				2	46-18-202
				3	50-46-301
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				7	50-46-308
				8	50-46-309
				9	50-46-310
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				26	Codification
					instruction
				27	Effective
					dates

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46-18-202	amended	I.M. 182
50-46-301	amended	I.M. 182
50-46-302	amended	I.M. 182
50-46-303	amended	I.M. 182
50-46-307	amended	I.M. 182
50-46-308	amended	I.M. 182
50-46-309	amended	I.M. 182
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50-46-327	amended	I.M. 182
50-46-329	amended	I.M. 182
50-46-330	amended	I.M. 182
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50-46-339	amended	I.M. 182
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